IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

SECURITIES AND EXCHANGE COMMISSION,	§	
	§	
Plaintiff,	§	
	§	
v.	§	
	§	
AMERICAN SETTLEMENT ASSOCIATES, LLC	§	**Civil Action No.:**
CHARLES JORDAN, and KELLY GIBSON	§	
	§	
Defendants.	§	
	§	

COMPLAINT

Plaintiff Securities and Exchange Commission ("Commission") alleges:

SUMMARY

1. This civil enforcement action involves a fraudulent scheme whereby Defendants Charles Jordan ("Jordan") and Kelly Gipson ("Gipson")—through American Settlement Associates, LLC ("ASA") (collectively, "Defendants")—sold fractional ownership interests in a particular viatical policy to a specific group of investors ("the Policy"), and then failed, without warning or disclosure, to use investors' money to cover the future premium payments on the Policy. Instead of reserving investor funds to pay future Policy premiums, as they represented they would do, Defendants commingled the funds and used them to pay Defendants' business and personal expenses and to support lavish lifestyles, including payments for jewelry, casinos and other travel and entertainment. In total, Defendants enriched themselves with at least $2.3 million of investor funds. As a result of Defendants' misappropriation, the Policy lapsed with no value on March 9, 2010.

2. From March through December 2007, Defendants raised over 3.7 million from more than 50 investors in 10 states (including Texas, Oklahoma, and Virginia) from the fraudulent offer and sale of the Policy, and thereafter continued the fraud scheme until the Policy lapsed in March 2010. In addition to misrepresentations regarding future premium payments, Defendants also concealed from investors significant risks relating to the Policy. For example, Defendants promised investors, among other things, that: (1) investors would receive fixed rates of return ranging from 42% to 48% after approximately three and one-half years from the bonded life settlement, even if the insured remained alive; and (2) ASA would obtain a surety bond, and that the bonding company would step in and pay investors their return if the insured lived beyond the estimated life expectancy. Defendants therefore promised safe investments in which future premiums are covered, and investors could count on a high return either through the insured's death within the life expectancy, or at the latest, through the bonding company pay-out within 12 months of the end of the life expectancy. These representations were false and misleading, because Defendants knew, or were reckless in not knowing, that they were not reserving funds to pay premiums, and the bonding company had a checkered regulatory history and was unlicensed to provide insurance in the United States.

3. The Commission seeks, to the extent possible, to preserve and recover the investors' misappropriated money and to seek to reinstate the Policy for the benefit of the investors. Because of the Defendants' history of misappropriating and mismanaging investor assets, they should not remain in control of bank accounts, policies, and/or any other assets involved in or derived from the scheme. The Commission brings this action to enjoin Defendants from further violations of the antifraud provisions of the federal securities laws (Section 17(a) of the Securities Act of 1933 ("Securities Act") [15 U.S.C. § 77q(a)] and Section 10(b) of the

Securities Exchange Act of 1934 ("Exchange Act") [15 U.S.C. § 78j(b)] and Rule 10b-5 [17 C.F.R. § 240.10b-5] thereunder). The Commission also asks that the Court appoint a receiver and grant other equitable relief to marshal and protect investor assets, and order the Defendants to disgorge their ill-gotten gains and pay civil money penalties.

JURISDICTION AND VENUE

4. The Commission brings this action pursuant to Sections 20(b) and 20(d) of the Securities Act of 1933 ("Securities Act") [15 U.S.C. §§ 77t(b) and 77t(d)] and Sections 21(d) and 21(e) of the Securities Exchange Act of 1934 ("Exchange Act") [15 U.S.C. §§ 78u(d) and 78u(e)].

5. This Court has jurisdiction over this action pursuant to Sections 20(d)(1) and 22(a) of the Securities Act [15 U.S.C. §§ 77t(d)(1) and 77v(a)] and Sections 21(d)(3), 21(e), and 27 of the Exchange Act [15 U.S.C. §§ 78u(d)(3), 78u(e), and 78aa]. Defendants, directly or indirectly, have made use of the means and instrumentalities of interstate commerce or of the mails in connection with the acts, transactions, practices, and courses of business alleged in this complaint.

6. Venue is proper in this District pursuant to Section 22(a) of the Securities Act [15 U.S.C. § 77v] and Section 27 of the Exchange Act [15 U.S.C. § 78aa]. Jordan and Gipson reside in the District, and the Defendants' principal place of business is located in the District. Also, acts, practices, and courses of business alleged in the complaint occurred in the District.

DEFENDANTS

7. **American Settlement Associates, LLC ("ASA")** is a Texas corporation formed in June 2007 and headquartered in Houston.

8. **Charles "Chip" C. Jordan ("Jordan"),** 30, is a resident of Houston, Texas. Jordan is a principal of ASA. Jordan was also a sales agent for the defendants named in *SEC v. Secure Investment Services, Lyndon Group, Inc., Donald F. Neuhaus, and Kimberly A. Snowden et al.*, Civil Action No. 2:07-cv-01724-LEW-CMK (E.D. Cal., filed Aug. 23, 2007) Jordan maintains a license with the Texas Department of Insurance, but has never been associated with a registered broker, dealer or investment adviser. Jordan has no known disciplinary history.

9. **Kelly T. Gipson ("Gipson"),** 30, is a resident of Houston, Texas. Gipson is a principal of ASA. Gipson also briefly assisted Jordan in his sales of Secure Investment Services, Inc. ("SIS") life settlements.

STATEMENT OF FACTS

A. Background

10. From March to December 2007 and continuing until as late as March 9, 2010 ("the relevant period"), Defendants have engaged in the business of offering, selling, and/or controlling fractionalized interests in life insurance policies, an investment product known as a "viatical" or "life settlement." Neither Jordan nor Gipson is a stranger to the viatical industry. Both Jordan and Gipson were sales agents for California-based Secure Investment Services, Inc. ("SIS"), which was the subject of a Commission enforcement action alleging facts substantially similar, and in many respects identical, to the facts alleged here. *See SEC v. Secure Investment Services, Inc., et al.*, Case No. 2:07-cv-01724-GEB-CMK (filed August 23, 2007).

11. In March of 2007, Defendants began soliciting investor funds for their own viatical offering. Jordan and Gipson acquired a $5 million policy in the name of a particular insured through a life settlements broker, paying the broker a fraction of the policy's face value as the negotiated purchase price. Jordan and Gipson continued to operate using the name

"Secure Investment Services," which they registered as a Texas d/b/a, until August 2007, when they formed ASA, a Houston-based Texas corporation. Both Jordan and Gipson are residents of Houston, Texas, and operated the fraudulent scheme described herein through ASA.

B. Defendants' Investment Scheme

12. ASA raised over $3.7 million from approximately 50 investors in 10 states by offering fractionalized interests in the Policy, an investment it marketed and solicited through its network of sales agents and described as a "bonded life settlement." If a potential investor expressed interest, ASA or its agents provided the prospective investor with an investment contract styled as a "Master Purchase Agreement" ("MPA") and a Purchase Addendum. Under the terms of the MPA and the Purchase Addendum, ASA undertook to perform significant post-investment responsibilities, including:

- Purchasing a bond guaranteeing the surety would purchase the policy at face value if the insured outlived the life expectancy plus 90 days;
- Payment of:
  - The reviewing physician fee
  - The bonding company fee
  - Premiums for a minimum of one year beyond the insured's projected life expectancy, or until the policy was purchased by the bonding company, whichever comes first
- Assigning fractionalized interests to investors;
- Tracking the health status of the insured;
- Making a demand on the bond company to perform on its obligations; and
- Obtain necessary documentation, i.e., a death certificate upon the insured's demise.

13. Jordan and Gipson copied the MPA and other paperwork from the SIS paperwork, making what they indicated were only minor, mostly cosmetic, alterations. Indeed, until Jordan

formed ASA in August 2007, the offering documents still bore the Secure Investment Services name and logo.

14. Upon selling a policy to investors, Defendants recorded the investors as "beneficiaries" and "owners" of the policy on the insurance company's records, as described in the Purchase Addendum. As the investment is structured, when the insured on the policy dies, the insurance company should pay each investor a pro rata share of the policy face amount that equals his or her original investment plus the return, which was based on a purported life expectancy estimate of the insured. These supposed estimates projected that the insured would die within 36-39 months, and by extension, projected when the investor would receive a return. The projected returns ranged from 42% to 48%. From the amount that each investor pays for the investment, Defendants take as much as 16-18% and use it to pay commissions to the sales agent. The investments were supposedly "bonded," so that if the insured lived beyond the life expectancy, then, after a waiting period, the bonding company would purchase the Policy from the investors, paying them the amount they would otherwise receive from the insurance company upon the death of the insured.

15. After the Policy is sold to investors, premiums on the Policy must be paid to prevent it from lapsing. The individual Purchase Agreements typically state that included in what investors pay is an amount sufficient to pay policy premiums for the life expectancy of the insured plus the bond waiting period (twelve months), and that Defendants will use this amount to pay the premiums. The investors are therefore passive participants, with their role limited to signing purchase documents and paying for the investment.

C. Defendants Falsely Represented that Future Premiums Were Covered

16. As Defendants know, when the Policy is sold to investors, a portion of the investor funds must be set aside in an amount sufficient to pay future premiums on the policy for the period of the life expectancy plus the bond waiting period. The investor purchase agreements contained the following representations by Defendants:

- "All of the following costs associated with the purchase of an interest of [sic] a policy are included in the investment amount . . . A premium payment for a minimum of one year beyond the projected life expectancy of the insured, or until the policy is purchased by the bonding company, whichever comes first."
- "ASA may escrow funds for future premium payments for a minimum of twelve (12) months beyond the projected life expectancy of the insured, or longer at ASA's discretion . . ."
- "Future premiums, for a minimum of the life expectancy of the insured plus twelve (12) months, or longer at the ASA's discretion, shall be paid by ASA . . ."

17. These representations are false and/or misleading. Future premium payments are not "included in the investment amount" because Defendants did not escrow, set aside, or otherwise reserve investor funds for payment of future premiums. Rather, during the relevant period, Defendants secretly commingled investor funds immediately upon receiving them and used them to pay sales commissions and any other expense of the scheme, and for their personal enrichment. Defendants did not reserve sufficient funds to pay future premiums on the Policy, as evidenced by the fact that they allowed the Policy to lapse for failure to pay the required premium.

18. At the end of 2007, even though Defendants were obligated to pay at least $1.2 million in future expected premiums on the Policy if the insured lived until the end of the bond waiting period, the investor money for the Policy had already been largely depleted. As of December 31, 2007, ASA held only about $275,000 in a commingled corporate bank account. Most, if not all, of that money represented funds derived from other investors from the sale of other types of policies.

19. Jordan and Gipson transferred substantial funds from corporate bank accounts they controlled to themselves. By the end of 2007, Jordan and Gipson together had withdrawn at least $646,000 in cash and checks, and they had used a debit card to spend over $369,000 on largely personal items, including airline tickets, jewelry, sports tickets, limousine service, and nightclubs.

20. During the relevant period, despite their gross self-enrichment and misappropriation of investor assets, Defendants were able to pay the premiums on the Policy for approximately two years from the money they earned from sales of entire, non-fractionalized policies to other investors.

21. Eventually, Defendants' scheme collapsed, and they could not meet their premium obligations on the Policy. Despite notices from the insurance company and a 60-day grace period, on March 9, 2010, the Policy lapsed with no value to investors.

22. The Defendants' recent activities indicate that any remaining funds in ASA's account are subject to rapid depletion. For example, Jordan's recent activities include sitting floorside at the NBA All-Star Game and a March 2010 trip to Cabo San Lucas, even as the Policy was at risk of lapsing and he failed to meet his obligations to investors.

D. Defendants Have Failed to Disclose Risks Associated With the Bonds

23. Defendants' purchase agreements state that that the investment "shall carry an insurance bond" that will pay the investor "the full face value of their interest in the policy, should for any reason, the policy not mature within the limits indicated in the agreement." A policy "matures" when the insured dies. The purchase agreements also state that "included in the investment amount . . . [is] [t]he Bonding Company fee for the life of the Agreement." The purported bonds are, in fact, illusory because the bonding company chosen by Defendants is unlicensed and has an adverse regulatory history.

24. Specifically, Defendants obtained a bond for the Policy from Provident Capital Indemnity Ltd. ("Provident"), a purported bonding company based in Costa Rica. However, Defendants failed to disclose to investors significant risks associated with the purported bonding company, including the fact that Provident is located offshore and is not licensed to provide insurance in Texas or any other state in the United States.

25. Further, Defendants failed to perform any significant due diligence on Provident, and thus failed to learn that Provident has a checkered regulatory history in California and appears on a list of insurance carriers banned from the state. They also failed to learn that in November 2006, Texas regulators issued a cease and desist order against Provident for providing bonds in a "life settlement" program without necessary authorization. Defendants did not disclose the bonding company's lack of licensure and adverse regulatory history to investors. Instead, Defendants led investors to believe that their investment would be safely bonded, when there was significant evidence that Provident was not reliable and might be unable or unwilling to pay on the numerous policies it has issued in connection with life settlement investments.

FIRST CLAIM FOR RELIEF

Violations of Section 17(a) of the Securities Act

26. Plaintiff Commission re-alleges and incorporates paragraphs 1 through 25 of this Complaint by reference as if set forth *verbatim*.

27. Defendants have, by engaging in the conduct set forth above, directly or indirectly, in the offer or sale of securities, by the use of means or instruments of transportation or communication in interstate commerce, or of the mails: (a) with scienter, employed devices, schemes, or artifices to defraud; (b) obtained money or property by means of untrue statements of material fact or by omitting to state material facts necessary in order to make statements made, in the light of the circumstances under which they were made, not misleading; and (c) engaged in transactions, practices, or courses of business which operated or would operate as a fraud or deceit upon the purchasers of such securities.

28. By reason of the foregoing, Defendants have directly or indirectly violated Section 17(a) of the Securities Act [15 U.S.C. § 77q(a)] and unless enjoined will continue to violate Section 17(a) of the Securities Act.

SECOND CLAIM FOR RELIEF

Violations of Section 10(b) of the Exchange Act and Rule 10b-5 Thereunder

29. Plaintiff Commission re-alleges and incorporates paragraphs 1 through 25 of this Complaint by reference as if set forth *verbatim*.

30. The Defendants, directly or indirectly, singly or in concert with others, in connection with the purchase or sale of securities, by use of the means and instrumentalities of interstate commerce and by use of the mails have: (a) employed devices, schemes, and artifices to defraud; (b) made untrue statements of a material fact and omitted 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; and (c) engaged in acts, practices, and courses of business which operate or would operate as a fraud and deceit upon purchasers, prospective purchasers, and any other persons.

31. By reason of the foregoing, the Defendants violated and, unless enjoined, will continue to violate Section 10(b) of the Exchange Act [15 U.S.C. § 78j(b)] and Rule 10b-5 thereunder [17 C.F.R. § 240.10b-5].

RELIEF REQUESTED

WHEREFORE, the Commission respectfully requests that this Court:

I.

Preliminarily and permanently enjoin the Defendants, their agents, servants, employees, attorneys and all persons in active concert or participation with them who receive actual notice of the injunction by personal service or otherwise, and each of them, from future violations of Section 17(a) of the Securities Act [15 U.S.C. § 77q(a)] and Section 10(b) of the Exchange Act [15 U.S.C. § 78j(b)] and Rule 10b-5 thereunder [17 C.F.R. § 240.10b-5].

II.

Enter an Order immediately freezing the assets of Defendants and directing that all financial or depository institutions comply with the Court's Order.

III.

Order the appointment of a receiver to recover, preserve and distribute funds and assets for the benefit of investors.

IV.

Enter an Order against Defendants prohibiting the destruction of documents and permitting the parties to take expedited discovery.

V.

Order the Defendants to provide an accounting and disgorge an amount equal to the funds and benefits they obtained illegally, or to which they are otherwise not entitled, as a result of the violations alleged, plus prejudgment interest on that amount.

VI.

Order the Defendants to pay civil monetary penalties in an amount determined as appropriate by the Court under Section 20(d) of the Securities Act [15 U.S.C. § 77t(d)] and Section 21(d) of the Exchange Act [15 U.S.C. § 78u(d)] for the violations alleged herein.

VII.

Retain jurisdiction of this action in accordance with the principles of equity and the Federal Rules of Civil Procedure in order to implement and carry out the terms of all orders and decrees that may be entered, or to entertain any suitable application or motion for additional relief within the jurisdiction of this Court.

VIII.

Order such further relief as this Court may deem just, equitable, and necessary.

Dated: March 19, 2010

Respectfully submitted,

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