

DISTRICT COURT, DENVER COUNTY, COLORADO	
1437 Bannock Street Denver, CO 80202	DATE FILED: July 23, 2019 4:08 PM
CHRIS MYKELBUST, Securities Commissioner for the State of Colorado,	FILING ID: 156B188C2A433 CASE NUMBER: 2019CV32831
Plaintiff,	
v.	
ANDREW WHITE, INTEGRATED WEALTH MANAGEMENT, INC., and MAKE SENSE MONEY, LTD., d/b/a FINANCIAL OUTFITTERS,	
Defendants.	▲ COURT USE ONLY ▲
PHILIP J. WEISER, Attorney General SUEANNA P. JOHNSON, 34840* Senior Assistant Attorney General Ralph L. Carr Judicial Building 1300 Broadway, 8 th Floor Denver, CO 80203 Tel: (720) 508-6155 Fax: (720) 508-6037 sueanna.johnson@coag.gov *Counsel of Record	Case No.: Courtroom:
COMPLAINT FOR INJUNCTIVE AND OTHER RELIEF	

Plaintiff Chris Myklebust, Securities Commissioner for the State of Colorado, by and through his counsel, the Colorado Attorney General and undersigned counsel, hereby submits his Complaint for Injunctive and Other Relief against the Defendant, and alleges as follows:

JURISDICTION

1. Plaintiff Chris Myklebust is the Securities Commissioner for the State of Colorado (the "Commissioner"). The Commissioner is authorized to administer all provisions of the Colorado Securities Act (the "Act"). § 11-51-703, C.R.S. He is also authorized to bring this action to seek temporary, preliminary, and permanent injunctive relief, along with other equitable relief against the Defendant upon sufficient evidence that the Defendant has engaged in or are about to engage in any act or practice constituting a violation of any provision of the Act. § 11-51-602, C.R.S.

2. Venue is proper in the district court for the City and County of Denver, Colorado. § 11-51-602(1), C.R.S.

SUMMARY OF THE ACTION

1. From approximately August 2016 to February 2018, the Defendants engaged in securities fraud by selling over \$7 million in promissory notes to over 40 investors. The issuer of the promissory notes was a company known as 1 Global Capital, LLC. The promissory notes funded Merchant Cash Advance loans that small and medium-sized companies entered into with 1 Global Capital. As an unlicensed sales representative through two unlicensed broker-dealer entities, the Defendants received over \$200,000 in transaction-based compensation from 1 Global Capital for their sale of the promissory notes to over 40 investors, of which at least 20 resided in Colorado. The Defendants failed to disclose material facts to investors, including but not limited to, the calculation used for investor returns, and the amount of interest charged to the merchants for the Merchant Cash Advance loans.

DEFENDANTS

2. Andrew White ("White" or collectively "Defendants") is an adult male whose last known address is 6124 Clearwater Drive in Loveland, Colorado.

3. Integrated Wealth Management, Inc. ("Integrated" or collectively "Defendants") is a Colorado corporation that was registered with the Colorado Secretary of State on January 2, 2013. Integrated is located at the same address as Defendant White. Defendant White is the incorporator and registered agent for Integrated.

4. Make Sense Money, Ltd., d/b/a Financial Outfitters ("Financial Outfitters" or collectively "Defendants"), is a limited liability company that was registered with the Colorado Secretary of State on August 24, 2013. Make Sense Money is located at the same address as Defendant White. Defendant White is the managing member and registered agent for Financial Outfitters. Defendant White registered with the Secretary of State the trade name of Financial Outfitters for Make Sense Money on May 30, 2017.

RELATED NON-PARTY ENTITIES

5. 1 Global Capital, LLC ("Global") is a Florida limited liability company located at 1250 E. Hallandale Beach Blvd. in Hallandale Beach, FL. Global was formed in 2013, and the issuer of the promissory notes at issue in this action.

6. Carl Ruderman ("Ruderman") served as the Chairman of Global from its founding in 2013 until July 2018, and was the sole owner of Global through the Ruderman Family Trust. Ruderman's last known address is 20165 NE 39th Place in Aventura, Florida.

GENERAL ALLEGATIONS

The Global Business Model

7. From 2013 until it ceased offering Merchant Cash Advance loans (“MCAs”) in July 2018 when it filed for bankruptcy, Global was in the business of funding MCAs.

8. According to Global’s promotional materials and website, the MCAs provided small and medium-sized businesses with short-term unsecured loans. These short-term loans were considered an alternative source of funding from traditional loans or financing methods that were insufficient to meet the needs of smaller businesses.

9. Global claimed that MCAs were necessary for small and medium-sized businesses because of the lack of banks willing to cater to smaller businesses.

10. According to Global, the average amount and of a MCA undertaken by Global ranged from \$335,000 with an average maturity of seven months. It represented that a merchant could qualify for up to 300% of the merchant’s credit card volume.

11. Global contracted with third-party vendors, identified as Independent Sales Organizations, to find merchants interested in and willing to apply for a MCA. Global also used internet marketing and in-house agents to find merchants. Once a merchant was identified, the merchant would apply directly with Global for the MCA.

12. Global’s website indicated that it catered to helping businesses “with less than perfect credit” to obtain unsecured MCAs to “meet payroll, make capital improvements, invest in infrastructure or do anything else they need.” Global also touted on its website that the MCA application process was fast, and that they could “provide the money [the merchant] need[ed] within hours of [the] application being submitted.”

13. Global’s underwriting process for approval of the MCAs purportedly included basic internet services, Clear Reports, credit bureau reports, and Decision Logic, a program to verify banking information. But Global’s website also indicated that the company would rely on four months of credit card transactions or bank statements for underwriting.

14. On their website, Global represented that it approved 90% of the MCA loans applied for by merchants without basing them on the merchants’ credit scores.

15. Global advertised that it was different from other MCA companies, as it made personal contact with each merchant before an advance was made, and

stayed in personal contact with the merchant during the term of the advance. Global claimed that approximately 65% of its merchants were repeat customers.

16. The MCAs were repaid by the merchants ostensibly from Automatic Clearing House ("ACH") debits deducted daily from the merchant's receipts or through the merchant's daily credit card receipts. Global would work with the merchants' credit card companies to split funding.

17. The MCAs were overwhelmingly funded from investor funds. Global referred to investors as a Lender or Syndicate Partner. The investor would complete a Memorandum of Indebtedness ("MOI"), an agreement that was executed between Global and the investor, evidencing the investor's investment.

18. Global touted that it obtained historical annual returns ranging from 12-15% and as high as 20% for investors lending money for the MCAs.

19. These types of returns could only be provided to investors because Global claimed that for every dollar it advanced as part of a MCA to a merchant, it collected between \$1.30-\$1.35. This means that Global was charging the merchant 30-35% interest, taking a management cut, and purportedly providing the remainder as investor interest return.

20. Global used a network of individuals, who were barred brokers and registered and unregistered investment advisers and sales agents, to offer and sell the MOIs to investors nationwide. The Defendants were unlicensed entities and an unlicensed individual that Global used to offer and sell the promissory notes to investors at issue in this case.

21. In August 2018, the Securities and Exchange Commission ("SEC") filed a civil enforcement action against Global alleging the offer and sale of unregistered securities and securities fraud. The SEC Complaint alleged, in part, that Global, through its network of sales agents, raised more than \$287 million from over 3,400 investors nationwide to fund its business of short-term financing through the offer and sale of unregistered promissory notes.

22. According to the Complaint filed by the SEC, as of April 2018, Global had loaned approximately \$348 million in over 4,000 MCA transactions. But due to collectability issues with merchants and Global's alleged misappropriation of funds, the company only had \$27.1 million in its bank accounts when it still owed investors under the MOIs at least \$272 million.

MOIs as Securities

23. The promissory notes, in the form of the MOIs, were executed between Global and an investor, the former referred to as the "Borrower" and the latter as the "Lender."

24. The MOIs stated, among other things, that: (a) the investor provided a certain amount of money to the borrower, identified as Global; (b) Global will allocate the investor's money to various MCAs, with the percentile amounts determined by Global; (c) the MOI matured in nine months subject to a renewal period if written notice from the investor was provided within 30 days from maturity; and (d) the investor's rate of return was a minimum of 3% with other considerations; (d) the MOI was collateralized by accounts and assets of the MCAs to which the investor funds were allocated.

25. The MOI provided Global with "sole discretion" to handle all aspects of the investment, and thus the investors were solely dependent on Global's decision-making and management efforts to make a profit. Global's sole authority over the investment included, but was not limited to:

- a. Global's control over all "Covered Activities" under the MOI, which included handling all aspects of the MCAs;
- b. Global's control to enter into MCAs with merchants in "certain amounts and with certain merchants;"
- c. Global's control to assign the percentage of the investor funds allocated to each MCA; and
- d. Global's control to make all decisions related to prioritization of accounts and utilization of proceeds of investor funds.

26. Global assigned no more than 2.5% of the investor's funds invested under the MOI to a particular MCA, and under the agreement, Global had sole discretion in making those allocations. Therefore, investors had no financial information about the merchant to whom their money was lent under the MCA to determine the level of risk of possible default on the part of the merchant. Global claimed this allocation practice was intended to diminish the investor's risk of a potential default from a specific MCA.

27. This allocation of a particular investor's monies was evidenced by monthly statements the investors received from Global. Early on, investors received statements that would identify the particular name of the merchant for whom the investor's money was allocated. But at least in 2018, instead of identifying a particular merchant by name specifying the percentage that the investor's money was assigned, the statements would only identify generally the type of industry the MCA was affiliated with, such as "Drilling Oil and Gas Wells," "Roofing Contractors," "Automotive Body," "Data Processing," "Drywall and Insulation Contractors." Some of the MCAs were not even identified with a specific industry category, but contained vague references, such as "All Other Specialty Trade Contractors," "All Other Personal Services," "All Other Professional." And

some industries were not identified at all except with a notation on the monthly statement as "Other."

28. Under the MOI, the investor did not receive monthly payments during the term of the promissory note, but Global kept such payments as "working capital" through the maturity date.

29. The investor could not accelerate the maturity date of the promissory note.

30. Even though the promissory notes were for terms of 9 months, the grace period contemplated in the MOI extended that duration of the note beyond that time period. This was based on Global's business model that was solely responsible for the allocation of the investor monies to various MCAs. Because an investor's monies may be in multiple MCAs, the terms of the MCAs would not necessarily expire upon 9 months coinciding with the maturity date of the MOI. During the grace period – an actual term identified in the MOI – it was contemplated that "monies from the ACH daily collections" would be "paid to [the investor] as each MCAT included in the [investor's] Account unwinds through the daily course of business."

31. The 9 month period was illusory in another way as well, as the promissory notes automatically rolled over into another 9 month term, unless the investor affirmatively requested termination 30 days prior to the maturity date. Because the monthly statements reported interest earnings for the investors, even though investors had not received money in hand during the 9 month term, most investors automatically renewed their MOIs for additional terms.

32. Investor funds were not collateralized by the accounts receivable or other assets or liens of the merchants who entered into the MCAs with Global. Instead, the MOI only notes that the MOIs were collateralized with the MCAs themselves.

33. Even though the MOIs indicate that the Lenders must be sophisticated, many investors who were offered and sold the MOIs by the Defendants characterized themselves as having minimal investment experience.

34. The promissory notes in the form of MOIs are securities as defined under § 11-51-201(17), C.R.S., as they are either notes or investment contracts.

The Defendants' Marketing Agreement with Global

35. On August 15, 2016, Defendant White, through his company Integrated, entered into a non-exclusive Marketing Agreement with Global. The Marketing Agreement was signed by Defendant White for Integrated and Ruderman for Global.

36. The Marketing Agreement authorized Defendant White to receive 4% per annum of any monies secured from investors for the MOIs that would then fund the MCAs for the initial period and any renewal periods.

37. Although the Marketing Agreement identifies Defendant White's company as Integrated, many of the investor documents from Defendant White to Global were sent using email for Make Sense Money or Financial Outfitters company letterhead.

Unlicensed Broker-Dealer/Sales Representative Activity

38. The Defendants offered and sold the MOI securities to at least 40 investors, of which at least 20 of those individuals reside in Colorado.

39. Licensing records for securities professionals are located online as part of either the Central Registration Depository ("CRD") or the Investment Advisor Registration Depository ("IARD"). CRD is maintained by the Financial Industry Regulatory Authority and the states, and is used by both states' securities departments and the SEC for registration and licensing of broker-dealers and sales representatives. IARD is maintained by the SEC for the registration of investment advisers and their firms. The Division of Securities utilizes both CRD and IARD as its official licensing records.

40. Defendant White is listed in CRD with identification number 2825552. Defendant White's CRD record indicates that he was slated to take the Series 6 exam, a precursor for registration as a sales representative in 1997, but never took the test.

41. The Division has no record of Defendant White ever being licensed as a sales representative or broker-dealer.

42. Documents from Global reveal that the unlicensed sales activity of Defendant White occurred through two of his business entities, Defendants Integrated and Financial Outfitters.

43. According to CRD, Defendants Integrated and Financial Outfitters have never been licensed as broker-dealers.

44. Despite being unlicensed as a sales representative or broker-dealer, documents from Global reveal that Defendant White received transaction-based compensation totaling 4% per annum on any monies secured from investors for the MCAs.

45. Defendant White was paid approximately \$201,925.66 in total commissions from Global for his offer and sale of the Global promissory notes from August 2016 to February 2018.

Unregistered Securities

46. The Defendants failed to register or file notices of exemptions for Global promissory notes.

47. Assuming the Defendants had filed the applicable notices of exemption, such exemptions are inapplicable at the time they engaged in their offers and sales of the securities. The exemptions from registration that existed in law during all relevant times herein did not permit the use of general solicitation to obtain investors for a private placement investment, or the use of unlicensed sales representatives who received transaction-based compensation.

FIRST CLAIM FOR RELIEF (Unlicensed Broker-Dealer Activity)

Defendant Integrated and Financial Outfitters

48. Paragraphs 1 through 47 are incorporated herein by reference.

49. At no time relevant to this Complaint were Integrated Wealth Management and Financial Outfitters licensed, or exempt from licensure, as a "broker-dealer" or registered in any capacity with the Commissioner, as required by §§ 11-51-401 and 402, C.R.S.

50. The Commissioner is entitled to an award of damages, interest, costs, and attorneys fees, restitution, disgorgement and other equitable relief on behalf of persons injured by the conduct of the Defendants pursuant to §§ 11-51-602(2), 604(2)(a) and (5)(a), C.R.S. The Commissioner is also entitled to a preliminary and permanent injunction against the Defendants, their officers, directors, agents, servants, employees, successors and attorneys-in-fact, as may be; any person, directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with the Defendants; and all those in active concert or participation with the Defendants, enjoining violation of §§ 11-51-401 and 402, C.R.S., by virtue of § 11-51-602, C.R.S.

SECOND CLAIM FOR RELIEF (Unlicensed Sales Representative Activity)

Defendant White

51. Paragraphs 1 through 50 are incorporated herein by reference.

52. At no time relevant to this Complaint was Defendant White licensed, or exempt from licensure, as a "sales representative" or registered in any capacity with the Commissioner, as required by §§ 11-51-401 and 402, C.R.S.

53. The Commissioner is entitled to an award of damages, interest, costs, and attorneys fees, restitution, disgorgement and other equitable relief on behalf of persons injured by the conduct of the Defendant pursuant to §§ 11-51-602(2), 604(2)(a) and (5)(a), C.R.S. The Commissioner is also entitled to a preliminary and permanent injunction against the Defendant, his officers, directors, agents, servants, employees, successors and attorneys-in-fact, as may be; any person, directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with the Defendant; and all those in active concert or participation with the Defendant, enjoining violation of §§ 11-51-401 and 402, C.R.S., by virtue of § 11-51-602, C.R.S.

THIRD CLAIM FOR RELIEF (Unregistered Securities)

All Defendants

54. Paragraphs 1 through 53 are incorporated herein by reference.

55. At no relevant time to this Complaint did the Defendants register, or file notices of exemption from registration for, the promissory notes that they offered and sold to investors, as required by § 11-51-301, C.R.S.

56. The Commissioner is entitled to an award of damages, interest, costs, and attorneys fees, restitution, disgorgement and other equitable relief on behalf of persons injured by the conduct of Defendants pursuant to §§ 11-51-602(2), 604(1) and (5)(a), C.R.S. The Commissioner is also entitled to a preliminary and permanent injunction against Defendants, their officers, directors, agents, servants, employees, successors and attorneys-in-fact, as may be; any person, directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with Defendants; and all those in active concert or participation with Defendants, enjoining violation of § 11-51-301, C.R.S., by virtue of § 11-51-602, C.R.S.

WHEREFORE, the Commissioner requests relief as follows:

1. For preliminary and permanent injunctive relief against all the Defendants, their agents, servants, employees, and successors; any person who, directly or indirectly, through one or more intermediaries, controls or is controlled by, or is under common control with; and all those in active concert or participation with the Defendants, enjoining the violations of all the Defendants of the Colorado Securities Act or successor statute.

2. For judgment in an amount to be determined at trial against all the Defendants for restitution, disgorgement and other equitable relief pursuant to § 11-51-602(2), C.R.S. For damages, rescission, interest, costs, reasonable attorneys fees, and such other legal and equitable relief, pursuant to §§ 11-51-604(1), (2)(a),

(4), and 5(a), C.R.S. as the Court deems appropriate. All of the preceding relief is sought on behalf of the persons injured by the acts and practices of all Defendants that constitute violations of the Act.

3. For an Order imposing a constructive trust on the fraudulently obtained funds held by each Defendant, or any entity controlled by them, and to order these Defendants to account for and disgorge all funds fraudulently obtained by them from the investors and transferred to them.

4. For such other and further relief as the court deems proper.

Respectfully submitted this 23rd day of July, 2019.

PHILIP J. WEISER
Attorney General

/s/ Sueanna P. Johnson

SUEANNA P. JOHNSON, 34840*

Senior Assistant Attorney General
Financial and Health Services Unit

Attorneys for Plaintiff Chris Myklebust, Securities

Commissioner

*Counsel of Record