

COPY

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

United States Court
Southern District of Texas
FILED

NOV 07 2000

Michael N. Milby, Clerk

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

vs.

Civil Action No.

UNITED AMERICAN INTERNATIONAL, INC.,
a Texas corporation;
UNITED AMERICAN MANAGEMENT, INC.,
a Texas corporation;
UNITED AMERICAN COMPANY,
a Texas corporation;
LUIS MARTINEZ; GUILLERMO WYDLER;
UNITED WORLD CAPITAL, LTD.,
a British Virgin Islands corporation; and
UNITED WORLD CAPITAL FUND, LIMITED,
a Bahamas corporation,

Defendants,

H - 00 - 3904

COMPLAINT

Plaintiff Securities and Exchange Commission ("Commission"), for its Complaint against Defendants United American International, Inc. ("UA"), United American Management, Inc. ("UAM"), United American Company ("UAC"), Luis Martinez ("Martinez"), Guillermo Wydler ("Wydler"), United World Capital, Ltd. ("UWC") and United World Capital Fund, Limited ("UWCF") (collectively "Defendants"), alleges as follows:

SUMMARY

1. In this action, the Commission charges the Defendants with perpetrating an investment fraud that targets investors in Mexico and other Latin American countries. The

Defendants are currently engaged in a fraudulent scheme of offering and selling securities in two offshore funds.

2. In the course of offering the securities, the Defendants are employing a scheme to defraud and are making omissions of material fact concerning, among other things, the investment risk of the underlying portfolio for the offshore funds and the significant losses sustained by those portfolios. In reality, the funds have lost a majority of their value, causing investors to lose more than half of their investment.

3. By engaging in the conduct detailed in this Complaint, the Defendants directly or indirectly, singly or in concert, have engaged, and, unless enjoined and restrained, will again engage in transactions, acts, practices and courses of business that constitute violations of section 17(a) of the Securities Act of 1933 ("Securities Act"), 15 U.S.C. §77q(a), section 10(b) of the Securities Exchange Act of 1934 ("Exchange Act"), 15 U.S.C. §78j(b), Commission Rule 10b-5, 17 C.F.R. §240.10b-5, and sections 206(1) and 206(2) of the Investment Advisers Act of 1940 ("Advisers Act"), 15 U.S.C. §§80b-6(1) & 80b-6(2).

JURISDICTION AND VENUE

4. The investments offered by the Defendants constitute "securities" under section 2(a)(1) of the Securities Act, 15 U.S.C. §77b(a)(1), and under section 3(a)(10) of the Exchange Act, 15 U.S.C. §78c(a)(10).

5. The Commission brings this action pursuant to the authority conferred upon it by section 20(b) of the Securities Act, 15 U.S.C. §77t(b), section 21(d) of the Exchange Act, 15 U.S.C. §78u(d), and section 209(e) of the Advisers Act, 15 U.S.C. §80b-9(e), to preliminarily and permanently enjoin the Defendants from future violations of the federal securities laws. The Commission also seeks to (a) require the Defendants to disgorge their ill-gotten gains, together

with prejudice interest, (b) prohibit the destruction of records and (c) obtain such other equitable relief as may be deemed appropriate. To prevent further investor losses, the Commission also seeks an order of this Court that, with regard to UA, UAM, UAC, UWC and UWCF, appoints a receiver with authority to take control of their assets. In addition, the Commission seeks civil penalties against each defendant pursuant to 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), and against UAM, Martinez and Wydler pursuant to section 209(e) of the Advisers Act, 15 U.S.C. §80b-9(e). This Court has jurisdiction over this action, and venue is proper, pursuant to sections 20(b), 20(d) and 22(a) of the Securities Act, 15 U.S.C. §§77(b), 77t(d), and 77v(a), sections 21(d), 21(e) and 27 of the Exchange Act, 15 U.S.C. §§78u(d), 77u(e) and 78aa, and sections 209(e) and 214 of the Advisers Act, 15 U.S.C. §§ 80b-9(e) and 80b-14.

6. The Defendants, directly or indirectly, singly or in concert, made use of the means or instruments of transportation and communication in, and the means or instrumentalities of, interstate commerce, or of the mails, in connection with the transactions, acts, practices and courses of business alleged herein. Certain of the transactions, acts, practices and courses of business alleged herein took place in the Southern District of Texas.

DEFENDANTS

8. United American International, Inc. (“UA”) is a Houston, Texas-based broker-dealer that has been registered with the Commission since November 1992. UA is a wholly owned subsidiary of UAC. UA conducts a general securities business on a fully disclosed basis through Bear Stearns & Company, Inc. UA’s clients are primarily Latin Americans.

9. United American Management, Inc. (“UAM”) is also a Houston, Texas-based corporation and a wholly owned subsidiary of UAC. UAM has been an investment adviser

registered with the Commission since 1993 and has acted as an investment adviser to UWC and UWCF for which it receives advisory fees.

10. United American Company ("UAC") is a Texas corporation and is the holding company for UA and UAM. Wydler is the president, a director and 26% owner of UAC. Martinez is the secretary, a director and 26% owner of UAC.

11. United World Capital, Ltd. ("UWC") is a British Virgin Islands ("BVI") corporation that has offered at least \$58 million of secured investments to UA's clients.

12. United World Capital Fund, Limited ("UWCF") is a Bahamas corporation that has offered at least \$12 million of secured investments to UA's clients

13. Luis Martinez ("Martinez"), age 50, is a resident of The Woodlands, Texas, and is the sole remaining officer and director of UA and UAM. Martinez primarily controlled the marketing of the UWC and UWCF investments by UA registered representatives.

14. Guillermo Wydler ("Wydler"), age 50, is a resident of The Woodlands, Texas, and was an officer and director of UA and UAM until May 2000. Wydler primarily managed the investor proceeds invested in UWC and UWCF.

THE SCHEME TO DEFRAUD

15. From September 1996 until the present, UWC and UWCF raised nearly \$70 million from about 560 investors, nearly all of whom were UA clients. UWC's prospectus, approved by Martinez and Wydler, claimed that UWC and UWCF would invest in Eurobonds, a fairly safe investment, and that the return of customers' principal was guaranteed.

16. Customers could choose between promissory notes that paid between 7.5% and 8% and "certificates," which were represented to be the equivalent of shares in a money market fund and which paid much less. While the prospectus referred to the actual investment vehicle as

“notes,” in fact no such notes were ever issued. Rather, investors merely received a receipt from UWC for the funds they deposited. UWCF was established by Martinez and Wydler in late 1999 as a second fund and was nearly identical to UWC.

17. UA built its client base from Latin American clientele, using a website that claimed it promoted sound investment strategies that offered security and an adequate rate of return. It appears that these investors sought safe, conservative investments. At least one investor who told his UA registered representative that he wanted no risk in the investment was told that UWC was like a money market fund that simply provided better returns.

18. Regardless of the desires of their customers for safe, conservative investments, and the assurances given them through the prospectus and sales representations, Wydler and Martinez engaged in a highly risky investment strategy from the outset. Instead of investing in Eurobonds, as promised in the offering documents, Wydler invested in volatile emerging markets bonds from countries such as Russia, Venezuela, Brazil, Argentina and Mexico.

19. Beginning in late 1997, these emerging markets’ bonds began losing value, causing the value of UWC’s portfolio to fall below customers’ investment principal. By September 1998, the bottom had fallen out of the emerging markets. Consequently, UWC lost as much as 35% of its value. UWCF’s portfolio likewise suffered, though not as precipitously as UWC’s. Although the emerging markets slowly improved, the value of the portfolios of UWC and UWCF never really recovered and remained down at least 20% by early 2000. These catastrophic losses to the funds were never disclosed to customers.

20. Instead, Wydler and Martinez continued to simply conduct business as usual, and continued to issue monthly account statements with postings of newly accrued interest.

Customers who chose to liquidate were permitted to do so and received all posted interest as well as their entire principal.

21. Further, without any disclosure of the devastating losses or the teetering state of the funds, Wydler and Martinez continued to accept new customer monies and permitted existing customers to roll over their investment, locking them in for a new term.

22. In early 2000, Wydler left. Still, Martinez remained mum about the funds' losses and dire prospects. As late as September 2000, he continued to permit existing customers to either liquidate or rollover as existing investments came due. One investor rolled over a six-month note for nearly \$100,000 as late as September 18, 2000. Such investors were doubly defrauded, because not only did the funds' dismal performance persist, but worse yet, the funds were simultaneously permitting full redemptions for other investors. This meant an even greater decline in the principal of the funds' assets and an ever-decreasing pot of assets from which to pay customers. As late as October 2000, investors received monthly statements enumerating accrued interest on the full principal. Inevitably, the funds collapsed.

23. By May 2000, Martinez placed a large portion of both funds' portfolios in United States treasuries. This stopped further trading losses. Given the large spread between the interest accrued to investors and the interest earned on UWC and UWCF's portfolios, the value of the portfolios continued to decline.

24. Upon information and belief, foreign associates of UA continued to solicit new investors for the funds until the decision to liquidate them was made. Ultimately, by the end of October 2000, UWC's portfolio was worth only about 43% of customers' principal, while UWCF's was worth approximately 60% of principal.

25. Martinez' secrecy about the collapse of the funds continued until the very end. Just one week before Martinez began to liquidate the funds, an examiner from the National Association of Securities Dealers was on site at UA to interview Martinez about certain other questionable trading activity at the firm. Yet, Martinez gave no hint of any problem with the funds.

26. Only after Martinez finally began the process of liquidating the funds did some investors learn about the problems. In the last week of October 2000, the son of an elderly Mexican couple who had invested over \$300,000 in six-month UWC "notes" first learned that his parents would be receiving less than 100% of their principal. His parents had been requested by UA to fill out an application for an account at UA's clearing firm. After hearing of this request, the son, who lives in Spain, had numerous discussions with Wydler and others associated with UA before finally being told that only 43% of the principal would be returned.

27. On November 3, 2000, the defendants notified the Commission's staff that the liquidation of the portfolios netted only about \$31 million, or less than half of the investors' principal.¹ They purportedly transferred most to investors, but some had not yet cleared. It is not known, at this time, whether these transfers went to investors.

CAUSES OF ACTION

COUNT ONE

Violations Of Section 17(a)(1) Of The Securities Act

28. The Commission realleges and restates Paragraphs 1 through 27 of this Complaint and incorporates the same by reference as if set forth herein *verbatim*.

29. The Defendants, directly or indirectly, in the offer and sale of securities, by use of the means and instruments of transportation and communication in interstate commerce and by

use of the mails; (a) employed devices, schemes or artifices to defraud; (b) obtained money or property by means of untrue statements of material fact or omissions to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; and (c) engaged in transactions, practices or courses of business which operate or would operate as a fraud or deceit.

30. As part of and in furtherance of this scheme, the Defendants directly and indirectly, prepared, disseminated or used, written offering documents, promotional materials, investor and other correspondence, and made oral presentations, which contained untrue statements of material fact and which omitted to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading, including, but not limited to, those statements and omissions set forth above.

31. The Defendants made the above-referenced misrepresentations and omissions knowingly or recklessly disregarding the truth.

32. By reason of the foregoing, the Defendants have violated, and unless enjoined, will continue to violate section 17(a)(1) of the Securities Act, 15 U.S.C. §77q(a).

COUNT TWO

Violations Of Sections 17(a)(2) and (a)(3) Of The Securities Act

33. The Commission realleges and restates Paragraphs 1 through 27 of this Complaint and incorporates the same by reference as if set forth herein *verbatim*.

34. The Defendants, directly or indirectly, in the offer and sale of securities, by use of the means and instruments of transportation and communication in interstate commerce and by use of the mails, have engaged in transactions, practices, or a course of business which operates or would operate as a fraud or deceit upon the purchaser of the securities.

¹ Of the \$31 million, \$24 million was apportioned to UWC and \$7 million was apportioned to UWCF.

35. As part of and in furtherance of this scheme, the Defendants directly and indirectly, prepared, disseminated or used contracts, promotional materials, investor and other correspondence and made oral presentations which contained untrue statements of material fact and which omitted to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading, including, but not limited to, those statements and omissions set forth above.

36. The Defendants, directly or indirectly, in the offer of securities, by use of the means and instruments of transportation and communication in interstate commerce made the above-referenced misrepresentations and omissions negligently.

37. By reason of the foregoing, the Defendants have violated, and unless enjoined, will continue to violate Section 17(a)(2) and (3) of the Securities Act, 15 U.S.C. §77q(a)(2) and (3).

COUNT THREE

Violations Of Section 10(b) Of The Exchange Act And Commission Rule 10b-5

38. The Commission realleges and restates Paragraphs 1 through 27 of this Complaint and incorporates the same by reference as if set forth herein *verbatim*.

39. The Defendants, directly or indirectly, singly or in concert with others, in connection with the purchase and sale of securities, by use of the means and instrumentalities of interstate commerce and by use of the mails (a) employed devices, schemes and artifices to defraud, (b) made untrue statements of material facts and omitted to state material facts 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 as a fraud and deceit upon purchasers, prospective purchasers and other persons.

40. As a part of and in furtherance of their scheme to defraud, the Defendants, directly and indirectly, prepared, disseminated or used contracts, written offering documents, promotional materials, investor and other correspondence and oral presentations which contained untrue statements of material facts and misrepresentations of material facts and which omitted to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading, including, but not limited to, those set forth above.

41. The Defendants made those misrepresentations and omissions knowingly or with reckless disregard for the truth.

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

COUNT FOUR

Violations Of Sections 206(1) And (2) Of The Investment Advisers Act

43. The Commission realleges and restates Paragraphs 1 through 27 of this Complaint and incorporates the same by reference as if set forth herein *verbatim*.

44. UAM, which previously has been registered with the Commission as an investment adviser, is an investment adviser, as defined by section 202(a)(ii) of the Advisers Act, 15 U.S.C. §80b-2(a)(ii). Wydler operated and controlled UAM, and along with Martinez, directed it in the violative activities described in this Complaint.

45. At all times relevant to the Commission's claims, UAM, operating under Martinez and Wydler's direction and control, has, by use of the mails and other means and instrumentalities of interstate commerce, directly and indirectly:

- a. employed devices, schemes and artifices to defraud clients and prospective clients; and
- b. engaged in transactions, practices, and courses of business which operated as a fraud or deceit upon clients and prospective clients.

46. By reason of the foregoing, UAM, has violated, and unless enjoined, will continue to violate section 206(2) of the Advisers Act, 15 U.S.C. §80b-6(2), and by reason of their activities and their direction of and control over UAM, Martinez and Wydler have aided and abetted, and unless enjoined, will continue to aid and abet, these violations. UAM, under Martinez and Wydler's direction and control, has intentionally, knowingly or recklessly conducted the activities described in this, so that it violated and, unless enjoined, will continue to violate section 206(1) of the Advisers Act, 15 U.S.C. §80b-6(1), and Martinez and Wydler have aided and abetted, and unless enjoined, will continue to aid and abet, these violations.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Securities and Exchange Commission respectfully requests that this Court:

I.

Preliminarily and permanently enjoin Defendants United American International, Inc., United American Management, Inc., United American Company, Luis Martinez, Guillermo Wydler, United World Capital, Ltd., and United World Capital Fund, Limited, from violating section 17(a) of the Securities Act, section 10(b) of the Exchange Act and Commission Rule 10b-5.

II.

Preliminarily and permanently enjoin Defendants United American Management, Inc., Luis Martinez and Guillermo Wydler from violating, or aiding and abetting violations of sections 206(1) and 206(2) of the Advisers Act.

III.

Enter an Order that Defendants United American International, Inc., United American Management, Inc., United American Company, Luis Martinez, Guillermo Wydler, United World Capital, Ltd., and United World Capital Fund, Limited, be restrained and enjoined from destroying, removing, mutilating, altering, concealing or disposing of, in any manner any of their books and records or documents relating to the matters set forth in the Complaint, or any of the books and records and such documents of any entities under their control until further order of the Court.

IV.

Enter an Order requiring the Defendants to disgorge an amount equal to any funds and benefits they obtained illegally as a result of the violations alleged herein, together with prejudgment interest on that amount.

V.

Enter an Order imposing civil penalties against Defendants United American International, Inc., United American Management, Inc., United American Company, Luis Martinez, Guillermo Wydler, United World Capital, Ltd., and United World Capital Fund, Limited, pursuant to section 20(d) of the Securities Act and section 21(d) of the Exchange Act and against Defendants United American Management, Inc., Luis Martinez and Guillermo Wydler pursuant to section 209(e) of the Advisers Act.

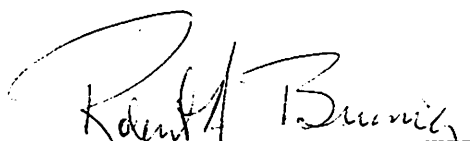
VI.

Enter an order appointing a temporary receiver for Defendants United American International, Inc., United American Management, Inc., United American Company, United World Capital, Ltd., and United World Capital Fund, Limited.

VII.

Enter an order granting such other and further relief as this Court may deem just, proper and equitable.

Dated: November 6, 2000.



Robert A. Brunig
(Attorney in Charge)
Texas Bar No. 24008381
S.D. Tex. Bar No. 23306
Spencer C. Barasch
District of Columbia Bar No. 388886
Victoria Prescott
Texas Bar No. 00785227
Douglas A. Gordimer
Maryland Bar Member

Attorneys for Plaintiff
SECURITIES & EXCHANGE COMMISSION
Fort Worth District Office
801 Cherry Street
Suite 1900
Fort Worth, TX 76102-6819
Telephone: 817/978-3821
Facsimile: 817/978-2700