

Thomas M. Melton, Utah Bar No. 4999
Email: meltont@sec.gov
Attorney for Plaintiff
Securities and Exchange Commission
15 W. South Temple Street, Suite 1800
Salt Lake City, Utah 84101
Telephone: (801) 524-5796

Karen Matteson, Cal. Bar No. 102103
Email: mattesonk@sec.gov
Ronnie B. Lasky, Cal. Bar No. 204364
Email: laskyr@sec.gov
Attorneys for Plaintiff
Securities and Exchange Commission
Rosalind R. Tyson, Regional Director
Michele Wein Layne, Associate Regional Director
John M. McCoy III, Regional Trial Counsel
5670 Wilshire Boulevard, 11th Floor
Los Angeles, California 90036
Telephone: (323) 965-3998

**UNITED STATES DISTRICT COURT
DISTRICT OF UTAH**

**SECURITIES AND EXCHANGE
COMMISSION,**

Plaintiff,

vs.

DENNIS LEE KEATING II,

Defendant.

Case No.

COMPLAINT

Plaintiff Securities and Exchange Commission (“Commission”) alleges as follows:

JURISDICTION AND VENUE

1. This Court has jurisdiction over this action pursuant to Sections 20(b), 20(d)(1) and 22(a) of the Securities Act of 1933 (“Securities Act”), 15 U.S.C. §§ 77t(b), 77t(d)(1) & 77v(a), and Sections 21(d)(1), 21(d)(3)(A), 21(e) and 27 of the Securities Exchange Act of 1934 (“Exchange Act”), 15 U.S.C §§ 78u(d)(1), 78u(d)(3)(A), 78u(e) & 78aa. Defendant has, directly or indirectly, made use of the means or instrumentalities of interstate commerce, of the mails, or of the facilities of a national securities exchange in connection with the transactions, acts, practices and courses of business alleged in this Complaint.

2. Venue is proper in this district pursuant to Section 22(a) of the Securities Act, 15 U.S.C. § 77v(a), and Section 27 of the Exchange Act, 15 U.S.C. § 78aa, because the defendant resides in this district.

SUMMARY

3. This matter concerns a fraudulent and unregistered offering of securities perpetrated by defendant Dennis Lee Keating II, a registered representative, minority owner, and executive vice president of Torrey Pines Securities, Inc. (“Torrey Pines”), a Commission registered broker-dealer. From August 2006 through at least April 2007, defendant Keating raised over \$17.6 million from over 100 investors who purchased units of Keating’s company, Paseo Partners LLC (“Paseo”).

4. Paseo’s private placement memorandum (“PPM”), authored by Keating, and Operating Agreement, written under Keating’s direction, falsely state that Paseo would use investors’ money to acquire an interest in contracts for nonferrous metal, i.e., metals that are free from iron, that resulted from dismantling equipment and scrapping the metal from four specific properties in Texas,

consisting of the Abitibi Corporation Sheldon Texas Paper Mill (the “Paper Mill”), and three power plants. However, rather than investing Paseo investors’ monies as promised, in late December 2006, Keating instead loaned the majority of Paseo investors’ funds to CalTex Holdings, LP (“CalTex”), a limited partnership formed by Keating and a third party, and CalTex used the money to help finance its purchase of the Paper Mill only. Moreover, Keating failed to disclose to investors that the Paseo loan to CalTex was subordinated to a loan by a third party financier made to CalTex, also for purposes of acquiring the Paper Mill, and that this meant investors would not receive either a return of their principal or profits until CalTex satisfied its obligation to pay off the third party loan.

5. In addition to falsely representing to investors how Paseo would use investor funds, Keating also falsely represented to them that: (1) he had personally invested millions of dollars in Paseo; (2) a registered broker-dealer supervised the Paseo offering; (3) investors would receive a return of their principal investment within 90 days; and (4) investors would receive a four-to-twelve time return on their investment. In order to ensure that investors did not seek to withdraw their investments from Paseo, Keating continued to make material misrepresentations to investors until at least October 2008.

6. Defendant Keating, by engaging in the conduct described in this Complaint, has violated, and unless enjoined will continue to violate, the antifraud, securities registration, and broker-dealer registration provisions of the federal securities laws. By this Complaint, the Commission seeks a permanent injunction, disgorgement of Keating’s ill-gotten gains with prejudgment interest, and imposition of a civil penalty.

DEFENDANT

7. **Dennis Lee Keating II** is a resident of Highland, Utah. During the period of the violations alleged in this Complaint, Keating resided in Temecula, California. Keating holds or has held Series 4, 7, 24, 63, and 65 security industry licenses. During all relevant times, Keating was a minority owner, executive vice president, and registered representative of Torrey Pines, which was and is registered with plaintiff Commission as a broker-dealer. In November 2008, Keating voluntarily resigned from Torrey Pines. Keating has since sold his ownership interest in Torrey Pines to a third party.

**KEATING'S FRAUDULENT OFFER AND SALE
OF UNREGISTERED SECURITIES**

A. Keating Forms CalTex

8. In or around May 2006, Worldwide Services, Inc. ("Worldwide") a purported demolition company, sought Keating's assistance in purchasing vacant industrial properties in Texas to dismantle the facilities and generate profits from the sale of scrap metal and used equipment. In furtherance of their venture, in August 2006, Keating and Worldwide formed a partnership called CalTex, of which Keating's personal family limited liability company, Sierra Mesa LLC, and Worldwide each owned fifty percent.

9. Keating understood that CalTex would purchase properties with funds from Keating and Worldwide in equal shares, CalTex would hire Worldwide to dismantle and sell metals and used equipment from the properties, and then CalTex would develop the underlying land. Keating received compensation totaling at least \$72,000 as a director of CalTex.

B. Keating Forms Paseo As A Means To Satisfy His Obligation To CalTex

10. In or about late August 2006, Keating formed Paseo, a Nevada limited liability company, and named himself as the only manager. Paseo has never been registered with the Commission in any capacity and has not registered any offering of its securities under the Securities Act or any class of securities under the Exchange Act.

11. Keating created Paseo as a means to raise the funds he needed to satisfy his agreed upon contribution to CalTex.

C. Keating Conducts An Unregistered Offering Of Paseo Securities

12. Beginning in August 2006, Keating marketed the Paseo investment by orally representing to prospective and actual investors that Paseo would use their monies to purchase investment contracts to sell nonferrous metal extracted from four specific properties in Texas, consisting of the Paper Mill and three power plants. Keating also orally represented to prospective investors that he had personally invested about \$2 million to \$8 million in Paseo, in order to convey that it was a sound investment. In fact, Keating never purchased any Paseo units.

13. Keating solicited money from family, friends, and Torrey Pines' customers and pooled their funds together into Paseo. Keating did not receive the required permission from his employer, broker-dealer Torrey Pines, to offer and sell the Paseo securities. Keating also did not separately register as a broker-dealer for purposes of offering and selling the Paseo investment.

14. In August or September 2006, Keating and Worldwide decided on behalf of CalTex that CalTex would not acquire all four properties, and instead, would acquire the Paper Mill only. Keating and Worldwide agreed that they would fund the purchase price of the Paper Mill in equal shares.

15. During this same period, in or around September 2006, Keating sent four pages of written material regarding all four Texas properties, as well as photographs of all four properties, to prospective investors. On the first page, below “Paseo Partners LLC A Nevada Limited Liability Company,” Keating listed each of the four Texas properties. The second page, authored by Keating, represents that Paseo would be a limited partner of CalTex and would receive 25% of the net proceeds from the sale of electricity, equipment from the power plants and nonferrous scrap metal. It further represents that CalTex had entered into escrow for the purchase of the three power plants, as well as describing the Paper Mill and representing that Paseo was purchasing 25% of the purported \$300 million in scrap metal contracts associated with the facility. The third page, also authored by Keating, explains that Keating was then collecting money from initial investors and that the owner of the power plants and the Paper Mill owner had asked to verify funds no later than September 15, 2006, and includes wire instructions for investors to transmit their investments. The fourth page, prepared by the owner of the Paper Mill, purportedly consists of a “Mill Brief History to 2005.”

D. Keating Authors And Disseminates A False PPM And Disseminates A False Operating Agreement

16. In or around October 2006, Keating drafted a PPM for Paseo. Keating backdated the PPM to August 31, 2006, the approximate date the first investor sent money to Keating for investment in Paseo. The PPM made the same representations about the Paseo investment that Keating had orally made to investors, and representations similar to those he had made in the written material described above that he transmitted to potential investors. Specifically, Paseo’s

PPM represented that Paseo would:

purchase THIRTY PERCENT (30%) of the nonferrous metal that is the result of dismantling, and scrapping of facilities in Texas. The facilities mentioned are specifically the Abitibi Corporation, Sheldon Texas Paper Mill and the Victoria, La Palma and Lon C. Hill electrical power facilities (the “Power Plants”) . . . The sole revenue to PASEO PARTNERS LLC is the result of selling the nonferrous metal associated with the Sheldon Paper Mill and the Power Plants in the open commodities markets. Revenue will also result from the sell [sic] of the used equipment associated with the Power Plants.

Keating’s representations in the PPM were materially false, as the Power Plants were not, in fact, going to be acquired.

17. The PPM further states that Paseo’s business is “managed by Dennis Keating, the Managing Nonmember.” As the sole manager of Paseo, Keating made all of Paseo’s investment decisions, and he controlled the information that Paseo provided to its investors during the entire relevant period.

18. Keating disseminated the PPM to some, but not all, Paseo investors in late 2006.

19. In or around November 2006, Keating directed an attorney to prepare an Operating Agreement on behalf of Paseo. The Operating Agreement was then backdated to August 22, 2006. Similar to the PPM, it represents that Paseo’s business would be to:

acquire the dismantling and equipment contracts for the Abitibi Paper Mill and Topaz Power properties; initialize the dismantling and scrapping of acquired properties; and financing arrangements with other entities engaged in dismantling and scrapping operations. This [Paseo] entity shall only participate in the dismantling and scrapping of non-ferrous metals only.

Keating read the Operating Agreement before distributing it to investors by email in or around November 2006. Keating did not correct the Operating Agreement to disclose that the Topaz Power Properties were not, in fact, going to be acquired.

E. Keating Misuses Investor Funds, Lending Them To CalTex Solely For Purchase Of The Paper Mill, And Subordinates The Loan Of Investor Monies To Satisfaction Of Repayment Of A Loan To CalTex By A Third Party Lender

20. Worldwide failed to pay its half of the purchase monies for the Paper Mill. Accordingly, in November 2006, Keating, on behalf of CalTex, approached a third-party financier for a loan to purchase the Paper Mill. Keating personally negotiated the terms of the loan to CalTex.

21. The third-party financier, NewStar Financial, Inc. (“NewStar”), agreed to loan CalTex almost \$21 million for the purchase of the Paper Mill. In exchange for the loan, however, Keating agreed, on behalf of CalTex, that NewStar would receive a senior security interest in, and first lien on, the Paper Mill property. Keating further agreed, on behalf of CalTex, to allocate to NewStar all cash generated from the sale of scrap metal, both nonferrous and ferrous, and equipment removed from the Paper Mill property, until CalTex had repaid the NewStar loan.

22. CalTex acquired the Paper Mill on December 29, 2006, for \$26 million. CalTex acquired the Paper Mill using the NewStar loan and a \$14.4 million loan from Paseo, consisting of investor monies.

23. Keating, on behalf of Paseo, entered into a separate agreement with CalTex, on whose behalf he also acted, for Paseo to pay \$1.8 million to purchase a 30% interest in profits generated by selling nonferrous metals harvested from the Paper Mill.

24. Keating did not disclose to Paseo investors that, contrary to his prior oral and written representations, he had used most of their invested funds as a loan

to CalTex to purchase only one of the four described properties, and that Paseo's loan was subordinated to a loan from NewStar, meaning that investors would receive neither the return of their principal or any profit prior to CalTex' full satisfaction of its obligation to NewStar.

25. Keating also failed to disclose the existence of CalTex and its role to many investors, and further failed to disclose that he was a director of CalTex and received compensation in that capacity. Keating also failed to disclose that his family LLC was a fifty percent partner in CalTex, that the other partner, Worldwide, had failed to meet its obligation to pay fifty percent of the purchase price for the Paper Mill, that he had negotiated the loan with NewStar, and that he had acted on behalf of both Paseo and CalTex in negotiating the agreement conferring a 30% profit interest to Paseo for \$1.8 million.

F. Keating Disseminates The False PPM And Operating Agreement To All Investors, Together With A False Investor Letter And Commission Form D

26. In or around mid-January 2007, subsequent to negotiating the loan from NewStar to CalTex, and lending the Paseo investor monies to CalTex and subordinating that loan to the NewStar loan, Keating transmitted by mail to all investors the PPM, together with, among other things, a letter to investors dated January 5, 2007 (the "Investor Letter"), the Operating Agreement, and a Commission Form D Notice of Sale of Securities (the "Form D") (collectively, the "January Package").

1. Keating Fails To Correct The PPM And Operating Agreement

27. Keating took no steps to amend the PPM or the Operating Agreement so that the documents accurately and fully disclosed the use of Paseo investor

monies. Accordingly, the PPM and Operating Agreement were materially false because they omitted to disclose: (1) that most of the Paseo investors' monies were used to make a loan to CalTex to purchase only the Paper Mill, rather than all four properties described in the PPM; (2) that the loan of Paseo investor monies was subordinated to satisfaction of the loan from NewStar; (3) Keating's relationship to CalTex and compensation therefor; and (4) Keating's role in negotiating the loan with NewStar, and in negotiating Paseo's profit interest.

2. Keating Makes Materially False Representations In The Investor Letter

28. In the Investor Letter, Keating told all of the Paseo investors for the first time that he had used \$14.4 million of their investment funds for a loan to CalTex for CalTex' purchase of the Paper Mill, and that he had used \$1.8 million to purchase a 30% interest in profits generated by selling nonferrous metals harvested from the Paper Mill.

29. Keating omitted material information from the Investor Letter, however. Specifically, Keating did not disclose to Paseo investors any information about NewStar's loan to CalTex, including that the loan from NewStar substantially reduced the likelihood that Paseo investors would receive return of their principal or profit because NewStar was given a senior security interest in, and first lien on, the Paper Mill property. Nor did Keating disclose that he had acted on behalf of both Paseo and CalTex in negotiating the distribution of net profits to Paseo.

30. Keating also misrepresented the manner in which CalTex would distribute money from the sale of nonferrous metal extracted from the Paper Mill property. The Investor Letter stated:

Gross proceeds from the sale of the non-ferrous metals will be distributed in the following order:

- a) Repayment of the \$14,400,000 loan principal and return of the \$1,800,000 of basis in the non-ferrous metals investment, and the remaining \$1,800,000 balance thereby return \$18,000,000 to investors;
- b) Thereafter, 30% of all Distributable Net Profits will be distributed to the investors (less any interest paid on the loan.)

Keating's representations were false because Paseo investors in fact would not receive any money generated by CalTex' sales of scrap nonferrous metal from the property until CalTex repaid the loan from NewStar.

3. Keating Makes False And Misleading Representations In The Commission Form D, Which He Fails To File With The Commission

31. The Commission Form D included in the January Package was authored by Keating. It too was false and misleading. Specifically, in the Form D, Keating listed Torrey Pines as the broker-dealer supervising the Paseo offering. In fact, Keating did not receive permission from Torrey Pines to sell the Paseo offering, Torrey Pines was not supervising the offering, and no registered broker-dealer was supervising the offering.

32. Keating did not file the Form D with the Commission, as required. He further did not disclose to investors that he had not filed it.

G. Keating Continues The Fraudulent Offer And Sale Of Paseo Securities After Disseminating The January Package

33. In the months following Keating's distribution of the January Package, Keating continued to offer and sell the Paseo investment. Beginning in at least March 2007, Keating orally misrepresented to investors that he would pay them their principal investment return within 90 days, and would pay them a four-

to-twelve time return on their investment. Keating was at least reckless in making these representations because he had negotiated the \$21 million loan from NewStar to CalTex, and knew that CalTex had committed to pay NewStar the profits from the sales of metals and equipment from the Paper Mill until CalTex repaid the loan.

34. Although Keating promised investors they would receive their principal investment back within 90 days, months passed with no such payments. Keating continued to lull investors, telling them that the Paper Mill property was successfully purchased and that the dismantling of the metals was on schedule.

35. In or around March 2007, Keating learned that the Worldwide had (1) materially overstated to him the amount of metals to be extracted from the Paper Mill; and (2) materially overstated to him its dismantling expertise and experience on a project similar to the Paper Mill. Nevertheless, Keating never sought an independent appraisal of the nonferrous metal values, and instead continued to rely on Worldwide's representation of the amounts of scrap metal on the Paper Mill property.

36. By April 2007, Keating had raised \$17,980,000 from over 100 investors, including at least three investors outside of California.

37. Keating personally sold interests in Paseo to the majority of the investors; two other individuals sold a few interests in the offering under Keating's direction.

38. In May 2007, after information began circulating among the investors about the NewStar loan to CalTex, Keating sent an email to investors, finally admitting the existence of the loan. However, he continued to fail to fully disclose that the NewStar loan had to be fully repaid before Paseo investors would receive a return of their principal or any profit.

H. Keating Engages In Lulling Behavior

39. Throughout the period Keating offered the Paseo investment, Keating continuously reassured Paseo investors about their investment, representing that the property was “very valuable” and that investors would be paid back their principal investment and substantial returns.

40. In or around the end of 2008, Keating assured at least one investor that he would still receive a 75% to 100% return on his Paseo investment.

41. Keating made these continuing representations regarding the safety of the investment in order to forestall investors from seeking their investment monies back or filing a lawsuit against him.

I. Keating Receives At Least \$2,573,850 In Ill-Gotten Gains As A Result Of His Illegal Conduct

42. From about September 2006 through about April 2007, Keating transferred at least \$2,573,850 in investor funds from the Paseo bank account to the Sierra Mesa LLC bank account, which he used as his personal bank account. These monies constituted ill-gotten gains to Keating resulting from his conduct in violation of the federal securities laws.

FIRST CLAIM FOR RELIEF

UNREGISTERED OFFER AND SALE OF SECURITIES

Violations of Sections 5(a) and 5(c) of the Securities Act,

15 U.S.C. §§ 77e(a) & 77e(c)

43. The Commission realleges and incorporates by reference paragraphs 1 through 42 above.

44. Defendant Keating, by engaging in the conduct described above, directly or indirectly, made use of means or instruments of transportation or

communication in interstate commerce or of the mails, to offer to sell or to sell securities through the use or medium of any prospectus or otherwise, or to carry or cause to be carried through the mails or in interstate commerce by any means or instruments of transportation, such securities for the purpose of sale or for delivery after sale.

45. No registration statement has been filed with the Commission or has been in effect with respect to the alleged securities offering.

46. By engaging in the conduct described above, Defendant Keating, violated, and unless restrained and enjoined will continue to violate, Sections 5(a) and 5(c) of the Securities Act, 15 U.S.C. §§ 77e(a) and 77e(c).

SECOND CLAIM FOR RELIEF

FRAUD IN THE OFFER OR SALE OF SECURITIES

Violations of Section 17(a) of the Securities Act, 15 U.S.C. § 77q(a)

47. The Commission realleges and incorporates by reference paragraphs 1 through 42 above.

48. Defendant Keating, by engaging in the conduct described above, in the offer or sale of securities by the use of means or instruments of transportation or communication in interstate commerce or by use of the mails, directly or indirectly:

- a. with scienter, employed devices, schemes, or artifices to defraud;
- b. obtained money or property by means of untrue statements of a material fact or by omitting 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; or

- c. engaged in transactions, practices, or courses of business which operated or would operate as a fraud or deceit upon the purchaser.

49. By engaging in the conduct described above, Defendant Keating violated, and unless restrained and enjoined will continue to violate, Section 17(a) of the Securities Act, 15 U.S.C. § 77q(a).

THIRD CLAIM FOR RELIEF

FRAUD IN CONNECTION WITH

THE PURCHASE OR SALE OF SECURITIES

**Violations of 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**

50. The Commission realleges and incorporates by reference paragraphs 1 through 42 above.

51. Defendant Keating, by engaging in the conduct described above, directly or indirectly, in connection with the purchase or sale of a security, by the use of means or instrumentalities of interstate commerce, of the mails, or of the facilities of a national securities exchange, with scienter:

- a. employed devices, schemes, or artifices to defraud;
- b. made untrue statements of a material fact or omitted 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; or
- c. engaged in acts, practices, or courses of business which operated or would operate as a fraud or deceit upon other persons.

52. By engaging in the conduct described above, Defendant Keating violated, and unless restrained and 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.

FOURTH CLAIM FOR RELIEF

FAILURE TO REGISTER AS A BROKER-DEALER

Violation of Section 15(a) of the Exchange Act, 15 U.S.C. § 78o(a)

53. The Commission realleges and incorporates by reference paragraphs 1 through 42 above.

54. Defendant Keating, by engaging in the conduct described above, made use of the mails or means or instrumentalities of interstate commerce to effect transactions in, or to induce or attempt to induce the purchase or sale of securities, without being registered as a broker or dealer in accordance with Section 15(b) of the Exchange Act, 15 U.S.C. § 78o(b).

55. By engaging in the conduct described above, Defendant Keating violated, and unless restrained and enjoined will continue to violate, Section 15(a) of the Exchange Act, 15 U.S.C. § 78o(a).

PRAYER FOR RELIEF

WHEREFORE, the Commission respectfully requests that the Court:

I.

Issue findings of fact and conclusions of law that Defendant Keating committed the alleged violations.

II.

Issue a judgment, in a form consistent with Fed. R. Civ. P. 65(d), permanently enjoining Defendant Keating, and his agents, servants, employees,

and attorneys, and those persons in active concert or participation with any of them, who receive actual notice of the judgment by personal service or otherwise, and each of them, from violating Sections 5(a), 5(c) and 17(a) of the Securities Act, 15 U.S.C. §§ 77e(a), 77e(c) and 77q(a), and a Sections 10(b) and 15(a) of the Exchange Act, 15 U.S.C. §§ 78j(b) and 78o(a), and Rule 10b-5 thereunder, 17 C.F.R. § 240.10b-5.

III.

Order Defendant Keating to disgorge all ill-gotten gains from his illegal conduct, together with prejudgment interest thereon.

IV.

Order Defendant Keating to pay a civil penalty under Section 20(d) of the Securities Act, 15 U.S.C. § 77t(d), and Section 21(d)(3) of the Exchange Act, 15 U.S.C. § 78u(d)(3).

V.

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.

///

///

///

///

///

///

///

VI.

Grant such other and further relief as this Court may determine to be just and necessary.

DATED: May 6, 2010

Respectfully submitted,

/s/ Thomas M. Melton

Thomas M. Melton, Utah Bar No. 4999
Email: meltont@sec.gov
Securities and Exchange Commission
15 W. South Temple Street, Suite 1800
Salt Lake City, Utah 84101
Telephone: (801) 524-6748

Karen Matteson, Cal. Bar No. 102103
Email: mattesonk@sec.gov
Ronnie B. Lasky, Cal. Bar No. 204364
Email: laskyr@sec.gov

Attorneys for Plaintiff
Securities and Exchange Commission
Rosalind R. Tyson, Regional Director
Michele Wein Layne, Assoc. Regional Director
John M. McCoy III, Regional Trial Counsel
5670 Wilshire Boulevard, 11th Floor
Los Angeles, California 90036
Telephone: (323) 965-3998