

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

CASE NO.

|                                     |   |
|-------------------------------------|---|
| SECURITIES AND EXCHANGE COMMISSION, | ) |
|                                     | ) |
| Plaintiff,                          | ) |
| v.                                  | ) |
|                                     | ) |
| JAMES F. ELLIS,                     | ) |
|                                     | ) |
| Defendant.                          | ) |
| _____                               | ) |

**COMPLAINT FOR INJUNCTIVE AND OTHER RELIEF**

Plaintiff Securities and Exchange Commission alleges as follows:

**I. INTRODUCTION**

1. From no later than October 2004 until 2011, Defendant James F. Ellis participated in a securities Ponzi scheme with George Elia. Ellis solicited investments in the scheme by finding potential investors and introducing them to Elia, responding to inquiries from potential investors, and falsely telling them he was enjoying consistent, high returns on his own long-term, multi-million dollar investment with Elia. In fact, Ellis had not made a multi-million dollar investment with Elia. The money Elia was paying him, which totaled more than \$2 million, was in truth payment for finding new investors for the Ponzi scheme. Over the course of seven years, Ellis was responsible for introducing at least half of Elia’s investors to him.

2. Following Ellis’ introductions, Elia falsely told investors he had a long track record of day trading stocks and exchange traded funds to yield annual returns as high as 26 percent, and that his trading on behalf of investors was paying quarterly returns of up to 20 percent. Ellis bolstered this misrepresentation by claiming Elia was paying him similar returns on his own investment with Elia. However, the returns Elia and Ellis claimed were not real and

Elia's trading resulted in losses or only marginal gains in limited time periods. Furthermore, Elia misappropriated millions of dollars of investor funds.

3. Through his conduct, Ellis violated:

(a) the antifraud provisions of Section 10(b) of the Securities Exchange Act of 1934 ("Exchange Act"), 15 U.S.C. § 78j(b); and Exchange Act Rule 10b-5, 17 C.F.R. § 240.10b-5;

(b) the antifraud provisions of 17(a) of the Securities Act of 1933 ("Securities Act"), 15 U.S.C. § 77q(a); and

(c) the registration requirements of Sections 5(a) and 5(c) of the Securities Act, 15 U.S.C. §§ 77e(a) and 77e(c).

4. Unless the Court enjoins Ellis, he is reasonably likely to continue to directly or indirectly violate these laws.

## **II. DEFENDANT AND RELATED PARTIES**

### **A. Defendant**

5. Ellis, age 69, is a resident of Wilton Manors, Florida. Ellis has never been registered with the Commission in any capacity.

### **B. Other Relevant Persons and Entities**

6. Elia, age 68, is currently incarcerated in the Federal Detention Center in Miami, Florida facing criminal charges in *U.S. v. Elia*, 12-cr-60077-Williams (S.D. FL 2012). The Commission also has a pending civil case against Elia, *SEC v. Elia*, 12-cv-60616-Dimitrouleas (S.D. FL 2012).

## **III. JURISDICTION AND VENUE**

7. In connection with the conduct alleged in this Complaint, Ellis, directly and indirectly, singly or in concert with others, has made use of the means or instrumentalities of interstate commerce, the means or instruments of transportation and communication in interstate

commerce, and the mails. More specifically, Ellis maintained a telephone answering machine for the pooled investment funds he and Elia schemed to offer and sell. Ellis also sent correspondence soliciting investments in the investment funds through the mails.

8. The Court has jurisdiction over this action pursuant to Sections 20(d) and 22(a) of the Securities Act, 15 U.S.C. §§ 77t(d) and 77v(a); and Sections 21(d) and 27 of the Exchange Act, 15 U.S.C. §§ 78u(d) and 78aa.

9. The Court has personal jurisdiction over Ellis, and venue is proper in the Southern District of Florida, because many of Ellis' acts and transactions constituting violations of the Securities Act and the Exchange Act occurred in the Southern District of Florida, as described throughout this complaint. In addition, Ellis resided in the Southern District of Florida during the period when the alleged conduct occurred.

#### **IV. THE FRAUDULENT INVESTMENT SCHEME**

10. Beginning no later than October 2004, Elia solicited investments using several different pooled investment vehicles including the Investor Funding Club and a series of Vision Equities Funds. Elia sometimes referred to an entity he controlled, International Consultants & Investment Group Ltd. Corp. ("ICIG"), as the investment adviser or manager of the pooled vehicles in which he solicited investments. ICIG was not registered with the Commission as an investment adviser.

11. Elia purported to pool investors' money and give them the opportunity to share in profits he would generate by "purchasing and selling common stock from selected public companies that are trading on NSDAQ [sic], NYSE, S&P 500 [sic] & OTCBB."

12. Investors were not active in selecting portfolio companies in which to invest or the day-to-day operations of the club or the funds.

13. No registration statement was filed or in effect with the Commission for any of the securities Elia offered and sold.

14. Elia claimed to be actively and successfully trading stocks, and regularly reported to investors they had earned high returns. In fact, Elia carried out little stock trading, and most of the trading that did occur was unprofitable. When investors on occasion received redemptions, the source of funds was not profits, but deposits from more recent investors.

15. Elia's Ponzi scheme began to collapse in mid to late 2011 when he was unable to meet requests for redemptions. As word of this difficulty circulated among the close-knit group of investors, more investors demanded refunds, speeding the collapse of the scheme.

**Ellis Fraudulently Solicited And Persuaded Investors  
To Invest in The Ponzi Scheme**

16. Ellis first contacted potential investors on behalf of Elia when he sent a letter in October 2004, which he and Elia co-signed, to people on a mailing list Ellis obtained from the Cadillac dealership where he worked. Ellis and Elia first met while Ellis was working at the dealership.

17. In the letter, Ellis stated that several months earlier he had joined the investment firm Elia headed. The letter claimed that Elia, a "seasoned Professional Money Manager and Consultant ... [had] managed to earn a sixty (60%) percent annual return for his selected clients each year for the past four (4) years."

18. At least one investor responded to this letter, met Elia through Ellis, and invested \$545,000 with Elia in 2005 and 2006.

19. Most of the people whom Ellis subsequently recruited to invest with Elia were his social connections in the gay community centered in Wilton Manors, Florida, including residents of the condominium project where Ellis' daughter was property manager.

20. Several of the investors were unsophisticated and inexperienced and, by virtue of their low net worth and income, were not qualified as accredited investors under the applicable Commission rule. Securities Act of 1933, Regulation D, Rule 501(a), 17 C.F.R. §230.501(a).

**Ellis' Misrepresentations To Investors**

21. Ellis falsely stated to numerous investors that he had inherited a large amount of money from his father and invested it with Elia. Typically, Ellis said that he had invested \$5 million with Elia, but told at least one investor he had invested more than \$10 million.

22. In fact, Ellis' net worth at the time he claimed to have invested with Elia was only about \$200,000. In addition, no evidence of any estate, much less a large estate, being passed to Ellis by his parents appears in the public records from the counties where Ellis' parents lived and died, including Suffolk County, New York, Palm Beach County, Florida, and Broward County, Florida.

23. Ellis also lured investors by boasting of Elia's investment acumen. Ellis told investors variously that he earned 16%, 18%, or 20% annual returns by investing with Elia. Alternatively, he told investors that he earned \$20,000 to \$24,000 per month from that investment.

24. Ellis did receive large periodic payments from Elia during the course of the Ponzi scheme, often totaling \$20,000 or more per month. Elia or his entities also occasionally wired large sums of money to or for the benefit of Ellis, including a wire transfer of \$284,000 in May 2007 and a wire transfer of \$25,785 in May 2011. In the first six months alone of 2007, Ellis received payments from Elia and his entities of at least \$550,000.

25. However, these payments were not investment returns, as Ellis told investors, because, as Ellis knew, he had not made an investment with Elia that would have returned such large sums of money. Instead, the payments to Ellis were for introducing new investors to Elia.

26. Moreover, despite his assurances to prospective investors about Elia's successful investment program, Ellis did not perform due diligence on Elia's business practices. For example, he never asked Elia what financial institutions he traded at and never sought to review any trading records or financial statements of Elia's companies.

27. Ellis bolstered his deceptive claims about the success of his investment with Elia with ostentatious displays of wealth, including expensive real estate, luxury cars, jewelry, opulent entertaining of his friends, and expensive cruises. He claimed his investment made all these purchases possible. Ellis failed to disclose to investors that his wealth derived not from legitimate investment returns but from the money Elia paid him for fraudulently touting Elia's investment vehicles.

28. As an example of Ellis's fraudulent conduct in recruiting investors, Investor "A," a resident of Delaware, became friendly with Ellis and stayed as a guest at Ellis's home during visits to Florida. Ellis started to pitch Elia's investment program to Investor "A." Ellis told Investor "A" that Ellis had given Elia \$5 million to invest and was earning 20% annual returns on it.

29. Investor "A" trusted Ellis and decided to make his own investment with Elia. On July 4, 2009, Investor "A" made an initial \$10,000 investment. He and Elia, as president of ICIG, signed an "Investor Private Equity Fund" agreement which stated that Investor "A" was a member of the Investor Funding Club and that he was "in agreement that the Investment Advisor shall be purchasing and selling common stock from selected public companies that are trading on

NSDAQ (sic), NYSE, S&P 500 & OTCBB.” Investor “A” made additional investments of \$10,000 in December 2009 and \$5,000 in December 2010.

30. As a second example, Investor “B” met Ellis on a cruise ship in early 2009 and became good friends with him. Ellis appeared to be wealthy and regularly talked to Investor “B” about how successful his investment adviser was. Ellis stated he had inherited a large sum of money from his parents and invested it all with Elia. Ellis told Investor “B” he received a check for \$23,000 in interest from Elia every month.

31. Investor “B” made an initial investment of \$10,000 in June 2009. He and Elia executed a “Private Equity Fund Agreement,” which stated that Investor “A” was a member of the Investor Funding Club, that he elected ICIG as his investment advisor, and that he was “in agreement that the Investment Advisor shall be purchasing and selling common stock from selected public companies that are trading on NSDAQ (sic), NYSE, S&P 500 & OTCBB.”

32. Subsequently, Investor “B” invested an additional \$25,000 with Elia and together with his partner, Investor “C,” invested more than \$100,000 in funds they transferred to Elia’s entities from their previously existing retirement accounts.

33. As a third example, Investor “D” met Ellis in May or June 2010. Ellis later asked Investor “D” if he would be interested in investing with Elia, who had helped Ellis make really good money. Ellis told Investor “D” that when he originally invested with Elia, he tested him by making an initial investment and then asking Elia to return it the very next day, which Elia did. Ellis arranged for Investor “D” to meet him and Elia at a restaurant in Fort Lauderdale in February 2011. Investor “D” then invested \$25,000 in April 2011.

34. As a fourth example, Investor “E” invested after Ellis gained his trust by telling him he had tested Elia’s honesty by giving him \$5 million and then asking for and receiving the

money back. Ellis told Investor "E" he then invested \$5 million with Elia. In September 2009, Ellis introduced Investor "E" to Elia and Investor "E" began investing a total of at least \$250,000.

35. As a fifth example, Ellis promised Investor "F" his principal would never be touched and that he would receive interest payments every month.

**Other Aspects of Ellis's Participation in Elia's Scheme**

36. Ellis participated in Elia's scheme with conduct other than his misrepresentations.

37. On at least one occasion, in June 2008, Ellis filled in the amount (\$14,000) and payee (ICIG) of a blank check that Investor "F" signed to invest with Elia.

38. In another instance, in August 2009, Ellis picked up from Investor "F" and delivered to Elia a check for \$20,790, representing an additional investment.

39. Ellis paid Investor "F" the "interest payments" that he was supposedly earning on his investment with Elia directly from Ellis' personal bank account. Investor "F" did not receive payments from Elia or ICIG.

40. After Investor "F" heard an answering machine in Ellis' home answer with a message from ICIG, Ellis told Investor "F" he was trying to drum up more business for Elia because that would mean more money for Ellis and the other investors.

41. Ellis kept in his home a stack of envelopes printed with the return address of Vision Equities Fund. Ellis told Investor "G" he worked for Elia and the Vision Equities Fund in a marketing capacity.

42. In or around January 2011, during a pitch to a potential investor, Elia handed a \$24,000 check to Ellis for his purported monthly investment returns, thereby misleading the potential investor regarding the returns paid by Elia's investment program.



43. To recruit more investors, Ellis frequently attended social events that his daughter staged at the condominium she managed. At those events, Ellis bragged about the wealth he had achieved through Elia's investment prowess. Elia sometimes attended these or other social events with Ellis and used the occasions to tout his investment management services.

## **V. CLAIMS FOR RELIEF**

### **COUNT I**

#### **Fraud In Violation of Section 10(b) and Rule 10b-5 of the Exchange Act**

44. The Commission repeats and realleges paragraphs 1 through 43 of its Complaint.

45. Starting no later than October 2004, Ellis, directly or indirectly, by use of the means and instrumentalities of interstate commerce, and of the mails in connection with the purchase or sale of securities, knowingly, willfully or recklessly: (a) employed devices, schemes or 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 the light of the circumstances under which they were made, not misleading; or (c) engaged in acts, practices and courses of business which have operated, are now operating and will operate as a fraud upon the purchasers of such securities.

46. By reason of the foregoing, Ellis directly or indirectly violated, and, unless enjoined, is reasonably likely to continue to violate, Section 10(b) of the Exchange Act, 15 U.S.C. § 78j(b), and Exchange Act Rule 10b-5, 17 C.F.R. § 240.10b-5.

**COUNT II**

**Fraud In Violation of Sections 17(a)(1) of the Securities Act**

47. The Commission repeats and realleges paragraphs 1 through 43 of its Complaint.

48. Starting no later than October 2004, Ellis, directly or indirectly, by use of the means or instruments of transportation or communication in interstate commerce and by use of the mails, in the offer or sale of securities, as described in this Complaint, knowingly, willfully or recklessly employed devices, schemes or artifices to defraud.

49. By reason of the foregoing, Ellis directly or indirectly violated, and, unless enjoined, is reasonably likely to continue to violate, Section 17(a)(1) of the Securities Act, 15 U.S.C. § 77q(a)(1).

**COUNT III**

**Fraud In Violation of Section 17(a)(2) and (3) of the Securities Act**

50. The Commission repeats and realleges paragraphs 1 through 43 of its Complaint.

51. Starting no later than October 2004, Ellis 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) obtained money or property by means of untrue statements of material fact or by omitting to state material facts necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading; or (b) engaged in transactions, practices or courses of business which operated or would operate as a fraud or deceit upon the purchasers of such securities.

52. By reason of the foregoing, Ellis directly or indirectly violated, and, unless enjoined, is reasonably likely to continue to violate, Sections 17(a)(2) and (3) of the Securities Act, 15 U.S.C. §§ 77q(a)(2) and (3).

**COUNT IV**

**Sales of Unregistered Securities in  
Violation of Sections 5(a) and 5(c) of the Securities Act**

53. The Commission repeats and realleges paragraphs 1 through 43 of its Complaint.

54. No registration statement was filed or in effect with the Commission pursuant to the Securities Act with respect to the securities and transactions described in this Complaint, and no exemption from registration exists with respect to these securities and transactions.

55. From no later than October 2004, Ellis, directly and indirectly:

- (a) made use of means or instruments of transportation or communication in interstate commerce or of the mails to sell securities as described herein, through the use or medium of a prospectus or otherwise;
- (b) carried securities or caused such securities, as described herein, to be carried through the mails or in interstate commerce, by any means or instruments of transportation, for the purpose of sale or delivery after sale; or
- (c) made use of means or instruments of transportation or communication in interstate commerce or of the mails to offer to sell or offer to buy through the use or medium of a prospectus or otherwise, as described herein, without a registration statement having been filed or being in effect with the Commission as to such securities.

56. By reason of the foregoing, Ellis violated, and, unless enjoined, is reasonably likely to continue to violate, Sections 5(a) and 5(c) of the Securities Act, 15 U.S.C. §§ 77e(a) and 77e(c).

**RELIEF REQUESTED**

**WHEREFORE**, the Commission respectfully requests that the Court:

**I.**

**Declaratory Relief**

Declare, determine, and find that Ellis has committed the violations of the federal securities laws alleged in this Complaint.

**II.**

**Permanent Injunctive Relief**

Issue a permanent injunction pursuant to Rule 65(d) of the Federal Rules of Civil Procedure enjoining: Ellis, his agents, servants, employees, attorneys, representatives, and all persons in active concert or participation with them, and each of them, from directly or indirectly violating Section 10(b) of the Exchange Act, 15 U.S.C. § 78j(b), and Exchange Act Rule 10b-5, 17 C.F.R. § 240.10b-5; Sections 5(a) and 5(c) of the Securities Act, 15 U.S.C. §§ 77e(a) and 77e(c); and Section 17(a) of the Securities Act, 15 U.S.C. § 77q(a).

**III.**

**Disgorgement**

Issue an Order directing Ellis to disgorge all ill-gotten gains, including prejudgment interest, resulting from the acts or courses of conduct alleged in this Complaint.

IV.

**Penalties**

Issue an Order directing Ellis to pay civil money penalties 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. § 78(d)(3).

V.

**Further Relief**

Grant such other and further relief as may be necessary and appropriate.


VI.

**Retention of Jurisdiction**

Further, the Commission respectfully requests that the Court retain jurisdiction over this action in order to implement and carry out the terms of all orders and decrees that it may enter, or to entertain any suitable application or motion by the Commission for additional relief within the jurisdiction of this Court.

Respectfully submitted,

November 9, 2012

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