

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

BOBBY M. COLLINS,

Defendant.

Case No. 3:15-CV-3620

COMPLAINT

Plaintiff Securities and Exchange Commission (“Commission”) files this Complaint against Bobby M. Collins (“Defendant”), respectfully alleging the following:

**I.
SUMMARY**

1. Since 2010, Defendant has raised approximately \$4.6 million from at least 36 investors across Texas and Oklahoma as part of a scheme he orchestrated through his unincorporated retirement planning business, Collins Insurance Companies a/k/a BMC Retirement Planning.

2. Defendant lured investors, most of whom are older than 65 years of age, to invest their savings by offering high-yield, unsecured notes promising outsized returns over 12, 18, and 24-month periods. Defendant assured these investors that he would use their funds to grow his business, and in turn pay significant returns to such investors from new business generation and revenue growth.

3. Defendant's promises were false. He rarely used investor funds to expand his business, spending less than 2% of investors' funds for this purpose. Instead, he used investor funds on a number of personal expenditures, including mortgage and luxury car payments, and to make payments to earlier investors.

4. By committing the acts described in this Complaint, the Defendant committed fraud by knowingly or recklessly employing a scheme to defraud and engaging in acts and practices that operated as a fraud or deceit upon investors. Accordingly, the Commission brings this civil enforcement action against Defendant seeking a permanent injunction, disgorgement plus prejudgment interest thereon, and civil penalties for violations of Sections 5(a), 5(c) and 17(a) of the Securities Act of 1933 ("Securities Act") [15 U.S.C. §§77e(a), 77e(c), 77q(a)] and Section 10(b) of the Securities Exchange Act of 1934 ("Exchange Act") [15 U.S.C. §78j(b)] and Rule 10b-5 thereunder [17 C.F.R. §240.10b-5].

II. **JURISDICTION AND VENUE**

5. Defendant offered and sold promissory notes with maturities longer than nine months, which constitute securities under Section 2(a)(1) of the Securities Act [15 U.S.C. §77b(a)(1)] and Section 3(a)(10) of the Exchange Act [15 U.S.C. §78c(a)(10)].

6. The Commission brings this action under Section 20(b) of the Securities Act [15 U.S.C. §77t(b)] and Section 21(d) of the Exchange Act [15 U.S.C. §78u(d)]. The Commission seeks the imposition of civil penalties pursuant to Section 20(d)(2)(c) of the Securities Act [15 U.S.C. §77t(d)] and Section 21(d)(3)(B)(iii) of the Exchange Act [15 U.S.C. §78u(d)].

7. This Court has jurisdiction over this action under Sections 20(b) and 22(a) of the Securities Act [15 U.S.C. §§77t(b) and 77v(a)] and Sections 21 and 27 of the Exchange Act [15 U.S.C. §§ 78u and 78aa] because Defendant directly or indirectly made use of the means or

instrumentalities of commerce and/or the mails in connection with the transactions described herein.

8. Venue is proper under Section 22(a) of the Securities Act [15 U.S.C. § 77v(a)] and Section 27 of the Exchange Act [15 U.S.C. §77aa], because certain of Defendant's acts, practices, transactions, and courses of business alleged herein occurred within this judicial district and division. Defendants' clients reside in various divisions of the Northern District of Texas, as well as in Oklahoma.

III. **DEFENDANT**

9. Collins, age 56, is a resident of Wichita Falls, Texas. He is licensed as an insurance agent in Texas and Oklahoma. From 1999 until January 2015, Collins operated a retirement planning business as Collins Insurance Companies, a sole proprietorship in Iowa Park, Texas. In January 2015, Defendant modified the name of his sole proprietorship to BMC Retirement Planning.

IV. **STATEMENT OF FACTS**

10. Defendant offers and sells various retirement planning products through his unincorporated insurance business. Defendant's website and local newspaper ads market his expertise as "helping retirees and those transitioning into retirement reduce tax burdens and increase income," a service he purportedly accomplishes through the sale of products such as fixed index annuities and Medicare supplements.

11. But for at least the last five years, Defendant's primary source of "revenue" was the sale of unsecured high-yield notes. Defendant offered these notes as part of a continuous offering that was not registered with the Commission.

12. Defendant typically relied upon his existing retirement planning customers as his high-yield note investor base. However, Defendant also enlisted the assistance of a broker in Oklahoma to find additional investors. In exchange for over \$100,000 in referral fees paid to the Oklahoma broker, Defendant secured at least three new investors, providing Defendant with hundreds of thousands of dollars in additional investor funds.

13. When they invested, investors signed a one-page agreement entitled “BMC Retirement Planning Payment Contracts.” This agreement contained little more than the date, amount invested and amount owed. In conjunction with the investment, Defendant represented to these investors that he would use their funds to grow his business, such as purchasing advertising and client lead sheets. In exchange, he promised investors outsized returns, typically 25% over a 12, 18, or 24-month term. Defendant represented to investors that he would pay these returns from increased revenues generated by his business expansion. Based on these promises, Defendant raised more than \$4.6 million from at least 36 investors.

14. Defendant did not provide investors any documentation to support his claimed business plan, nor did he take any steps to confirm the investors’ sophistication or accreditation. Most of the individuals who ultimately invested with the Defendant were not financially sophisticated and at least some were not accredited.

15. Given that Defendant managed every aspect of the promissory note offering, he knew, or acted with severe recklessness in not knowing, that investor funds would not be used for the purpose he claimed. From January 1, 2010 through May 2015, Defendant spent less than \$70,000 – or less than 2% - of the millions of dollars he raised on business generation expenses. In fact, Defendant spent tens of thousands of dollars more on referral fees to recruit additional investors than he spent on growing business, the linchpin of his promise to investors.

16. Defendant used the majority of investors' funds – approximately \$4.0 million – to pay purported returns to earlier investors out of fund from later investors. Such payments ensured Defendant was able to perpetuate the scheme for years.

17. Additionally, Defendant used the bulk of the remaining investors' funds for his own personal benefit, including: (1) over \$100,000 in luxury car payments; (2) over \$100,000 in cash withdrawals; (3) over \$150,000 of dollars on personal retail expenses; and (4) over \$200,000 in credit card and loan payments.

18. In early 2015, new client funds failed to keep pace with the amounts owed to earlier investors and the scheme started to fall apart. To buy more time, Defendant solicited a close friend for two loans totaling \$483,521 for the express purpose of repaying earlier investors.

19. Without disclosing his financial difficulties, his inability to repay earlier investors or the true intended purpose for the funds, Defendant continued to solicit and receive more investor funds. He raised approximately \$385,000 in new investments in 2015, again for the ostensible purpose of building up his insurance business. Once again, only a very small amount of the new investor funds (about \$12,000) went to this purpose and he continued to use investor funds to make payments to earlier investors and for own his personal expenditures.

V.
CLAIMS FOR RELIEF

FIRST CLAIM
Violations of Section 17(a) of the Securities Act

20. The Commission repeats and re-alleges Paragraphs 1 through 19 of the Complaint as if fully set forth herein.

21. By engaging in the conduct described herein, Defendant directly or indirectly, in the offer or sale of securities and by use of the means and instrumentalities of interstate commerce or of the mails, or any facility of a national securities exchange, has:

- a) employed devices, schemes or artifices to defraud; or
- 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; or
- c) engaged in transactions, practices or courses of business which operated or would operate as a fraud or deceit upon purchasers of securities.

22. With regard to his violations of Section 17(a)(1) of the Securities Act, Defendant acted intentionally, knowingly or with severe recklessness with respect to the truth. With regard to his violations of Sections 17(a)(2) and 17(a)(3) of the Securities Act, Defendant acted at least negligently.

23. By engaging in this conduct, Defendant violated, and unless enjoined will continue to violate, Section 17(a) of the Securities Act [15 U.S.C. § 77q(a)].

SECOND CLAIM

Violation of Section 10(b) of the Exchange Act and Rule 10b-5 thereunder

24. The Commission repeats and re-alleges Paragraphs 1 through 19 of the Complaint as if fully set forth herein.

25. By engaging in the conduct described herein, Defendant, directly and indirectly, with *scienter*, by use of the means or instrumentalities of interstate commerce, or of the mails, or of the facilities of a national securities exchange, in connection with the purchase or sale of securities, has:

- a) employed devices, schemes or artifices to defraud;

- b) made untrue statements of material fact or 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; or
 - c) engaged in acts, practices or courses of business which operated as a fraud or deceit upon the purchasers or sellers of securities.
26. Defendants engaged in this conduct intentionally, knowingly, or with severe recklessness with respect to the truth.
27. By engaging in this conduct, Defendant has violated and, unless enjoined, will continue to violate Exchange Act Section 10(b) [15 U.S.C. § 78j(b)] and Rule 10b-5 [17 C.F.R. § 240.10b-5].

THIRD CLAIM
Violations of Section 5(a) and 5(c) of the Securities Act

28. The Commission repeats and re-alleges Paragraphs 1 through 19 of the Complaint as if fully set forth herein.
29. By the conduct as alleged above, Defendant, directly or indirectly, (i) made use of the means or instruments of transportation or communication in interstate commerce or of the mails to sell, through the use or medium of a prospectus or otherwise, securities, when no registration statement was in effect with the Commission as to such securities; (ii) for the purpose of sale or delivery after sale, carried or caused to be carried through the mails or in interstate commerce , by any means or instructions of transportation, securities as to which no registration statement was in effect; or (iii) made use of any 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, such securities when no registration had been filed with the Commission as to such securities.

30. No valid registration statement was filed or was in effect with the Commission in connection with Defendants' offer or sale of securities.

31. By engaging in this conduct, Defendant violated and, unless enjoined, will continue to violate Sections 5(a) and 5(c) of the Securities Act [15 U.S.C. §§ 77e(a) and 77e(c)].

VI.
RELIEF REQUESTED

For these reasons, the Commission respectfully requests that the Court enter a judgment:

- a. Finding that the Defendant committed, and unless enjoined will continue to commit, the violations alleged in the First through Third Claims for Relief in this Complaint;
- b. Permanently enjoining Defendant, his agents, servants, employees, attorneys, and all persons in active concert or participation with him who receive actual notice of the injunction by personal service or otherwise, from violating Sections 5(a), 5(c) and 17(a) of Securities Act [15 U.S.C. §§77e(a), 77e(c), 77q(a)] and Section 10(b) of the Exchange Act [15 U.S.C. §78j(b)] and Rule 10b-5 thereunder [17 C.F.R. §240.10b-5];
- c. Ordering Defendant to pay disgorgement representing all ill-gotten gains and/or unjust enrichment realized by him as a result of the conduct alleged in the Complaint, together with prejudgment interest;
- d. Ordering Defendant to pay an appropriate civil penalty pursuant to 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)];

e. Granting such further relief as this Court may deem just and proper.

November 10, 2015

Respectfully submitted,

Janie L. Frank

Janie L. Frank

Texas Bar No. 07363050

SECURITIES AND EXCHANGE COMMISSION

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