

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

CASE NO.:

SECURITIES AND EXCHANGE COMMISSION,)
)
Plaintiff,)
)
v.)
)
JOHN W. FISHER,)
)
Defendant.)
_____)

COMPLAINT FOR INJUNCTIVE AND OTHER RELIEF

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

I. INTRODUCTION

1. From no later than March 2017 through June 2018, Defendant John W. Fisher served as an unregistered broker on behalf of 1 Global Capital, LLC (“1 Global” or “the Company”), a South Florida merchant cash advance company. During that time, Fisher raised more than \$8.5 million for 1 Global from the offer and sale of securities in unregistered transactions to at least 80 investors. Fisher earned approximately \$329,000 in commissions from those sales.

2. 1 Global marketed its investment as a safe and secure alternative to the stock market and baselessly claimed that investing in the Company’s merchant cash advance business would achieve high single-digit or low double-digit annual returns. Like other 1 Global sales agents, Fisher repeated those claims to prospective investors.

3. Unbeknownst to Fisher’s clients, many of whom invested their retirement savings, 1 Global’s business was a fraud. 1 Global and its chairman and chief executive officer Carl Ruderman were misrepresenting how they were using investor money, syphoning off millions in

investor funds to fund Ruderman's luxury lifestyle and operate unrelated businesses. 1 Global's business came to a crashing halt when it filed for bankruptcy in July 2018, leaving many of Fisher's customers and thousands of other investors with hundreds of millions of dollars in losses.

4. During the time he offered and sold 1 Global's securities, Fisher was not registered as a broker-dealer with the Commission or associated with a registered broker-dealer. Additionally, 1 Global did not register its securities offering with the Commission, and there was no applicable exemption from registration for this offering.

5. By engaging in this conduct, Fisher violated Sections 5(a) and 5(c) of the Securities Act of 1933 ("Securities Act") [15 U.S.C. §§ 77e(a) and 77e(c)], and Section 15(a)(1) of the Securities Exchange Act of 1934 ("Exchange Act") [15 U.S.C. § 78o(a)(1)]. The Commission seeks an injunction against Fisher from future violations of these provisions, as well as disgorgement of ill-gotten gains, prejudgment interest on disgorgement, and a civil money penalty.

II. DEFENDANT

6. Fisher, 78, resides in Sacramento, California. He currently holds a Series 65 securities license. From August 2016 to March 2018, he was associated with Journey Wealth Management Advisors, LLC, an investment adviser firm registered with the states of California and Hawaii. He then formed and was the control person of Fisher-Caulkins Wealth Management, Inc., an investment adviser firm registered with the state of California from March 2018 until December 2020. Fisher is also state-licensed to sell insurance and annuity products.

III. JURISDICTION

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

8. This Court has personal jurisdiction over Fisher and venue is proper in the Southern District of Florida because 1 Global transacted business from its headquarters in Hallandale Beach, Florida, and Fisher regularly transacted business with 1 Global by email and telephone from March 2017 through June 2018. These transactions included the sale of securities in an unregistered offering while not being registered as or associated with a broker-dealer, the acts that constituted the violations alleged in this Complaint. More specifically, they included:

- a. Traveling to South Florida in April 2017 and spending two days at 1 Global's offices meeting with 1 Global officers, managers, employees, and attorneys, including Ruderman, about every aspect of 1 Global's business;
- b. Emailing 1 Global managers and others in 1 Global's Hallandale Beach offices to discuss the logistics of clients investing in 1 Global, and emailing and calling 1 Global representatives in the Company's offices about clients withdrawing funds from 1 Global;
- c. Signing a sales agreement with 1 Global to offer and sell its securities;
- d. Receiving marketing materials from 1 Global by email to use in offering 1 Global securities;
- e. Signing a 1 Global investment document himself and receiving a signed copy back, and sending money to 1 Global;
- f. Assisting his clients with filling out 1 Global paperwork, signing 1 Global investment documents; and sending the investment documents and funds to 1 Global (which returned signed copies to investors);
- g. Receiving commissions from 1 Global and emailing 1 Global personnel about the commissions;
- h. Receiving clients' monthly account statements from 1 Global; and

i. Emailing 1 Global about obtaining the Company's financial statements.

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

IV. FACTUAL ALLEGATIONS

A. The 1 Global Offering

10. From 2014 until July 27, 2018, 1 Global and Ruderman fraudulently raised at least \$320 million from the sale of unregistered securities to more than 3,600 investors nationwide. 1 Global was in the business of funding merchant cash advances ("MCAs") - short-term loans to small and medium-sized businesses. According to its marketing materials and website, 1 Global provided these businesses with an alternative source of funding to traditional bank loans and other financing methods. 1 Global funded its MCA business and operations almost entirely with money from investors, whom the Company referred to alternately as "Lenders" or "Syndicate Partners."

11. For the vast majority of the four-plus years 1 Global offered and sold its investment, it used instruments entitled either a Syndication Partner Agreement ("SPA") or a Memorandum of Indebtedness ("MOI") as the note or contract between the Company and investors. The SPAs termed the investors partners, while the MOIs called investors lenders. The only use of investor funds 1 Global specifically identified in both documents as well as in its marketing materials was for MCAs. After 1 Global received investor funds, it pooled and commingled them together in non-segregated 1 Global bank accounts.

12. The SPAs and MOIs had terms of either nine months or one year. While the MOI stated that it was a nine-month note, for most of the time 1 Global raised money from investors

the MOI also stated the note would automatically roll over into a new nine-month term unless the investor expressly informed the Company in writing at least 30 days before the end of the nine months that he or she did not want the note to roll over.

13. 1 Global represented to investors in marketing materials it gave its sales agents to distribute - including Fisher - that it collected an average of \$1.30 to \$1.40 on each dollar it advanced in an MCA. This was the means by which 1 Global and investors both purportedly made a profit.

14. Although 1 Global sent investors monthly account statements purporting to show each investor's account credited with interest payments, investors did not receive those payments right away. 1 Global only paid that interest when investors cashed out. Thus, the majority of investors, who allowed their investments to roll after nine months, never received interest payments and ultimately lost their principal. This practice allowed 1 Global and Ruderman to misappropriate investor funds.

15. The profitability of the 1 Global investment was derived solely from the efforts of 1 Global. Investors had no control over how Ruderman and 1 Global used their money. Investors could not and did not manage their MCA loan portfolios; it was solely up to 1 Global whether and when to use an investor's money to fund MCAs and which MCAs to fund. The success of the investment and whether an investor earned profits were solely dependent on 1 Global's decisions on MCA funding and other uses of money, as well as repayment and collection efforts.

B. 1 Global and Ruderman's Misrepresentations

16. 1 Global and Ruderman's false representations to investors in marketing materials and on monthly account statements included: (a) that 1 Global would use their money to fund MCAs; (b) the monthly statements accurately disclosed the existing value of the investment; and

(c) that the Company's supposed independent audit firm agreed with 1 Global's method of calculating investors' returns.

17. In reality, 1 Global and Ruderman used a substantial amount of investors' funds for purposes other than making MCAs, including on operations and non-MCA business transactions. In addition, Ruderman misappropriated at least \$32 million in investor funds to enrich himself as well as several companies in which he or his family members had a direct interest. This included money to help fund a family vacation to Greece, monthly payments for a Mercedes Benz, monthly American Express credit card payments, payments for Ruderman's household staff, \$4 million to his family trust, and \$1 million to one of his sons to invest in cryptocurrency.

18. Furthermore, with Ruderman's knowledge, 1 Global provided every investor with a monthly account statement that falsely showed the investor's portfolio value. The statements reflected the investor's fractional interest in a number of MCAs, and a monetary figure alternatively called "cash not yet deployed," "cash to be deployed," or "cash for future receivables." Regardless of the terminology used, the figure represented the amount of the investment that 1 Global had not yet put into MCAs and was purportedly sitting in 1 Global's bank accounts available for MCA funding.

19. However, starting no later than October 2017, the monthly account statements were false because, due in large part to Ruderman's misappropriation, they overstated by \$23 million to \$50 million the amount of cash available for investors in 1 Global's bank accounts. Because that amount was false, the total value of each investor's portfolio, the increase in the valuation since the original investment, and the rate of return each account statement showed, were all overstated.

20. Finally, each investor's monthly account statement falsely claimed, "Our independent audit firm, Daszkal Bolton L.L.P., has endorsed and agrees with the rate of return

formula.” However, Daszkal Bolton never audited 1 Global’s financial statements, and never endorsed or agreed with 1 Global’s rate of return formula.

**C. Fisher Acted as an Unregistered Broker-Dealer and Offered and Sold
1 Global Notes in Unregistered Securities Transactions**

21. 1 Global recruited a network of dozens of external, mostly unregistered, sales agents, including Fisher. On March 31, 2017, Fisher signed a sales agreement with 1 Global calling for him to receive a four percent commission on all direct sales he made, plus additional percentages for renewals and for the sales of any other sales agents he recruited for the Company.

22. In April 2017, about the time he started offering 1 Global securities to his clients, Fisher traveled to South Florida where he spent two days meeting with numerous 1 Global officers, managers, and employees to discuss every aspect of 1 Global business. At that time, Fisher spoke to a 1 Global attorney who told him that 1 Global had at one time sold a one-year note, but changed it to nine months so as not to be subject to Commission registration requirements. Additionally, 1 Global representatives told Fisher 1 Global had audited financial statements.

23. 1 Global regularly provided sales materials to Fisher for use in marketing the investment. Those materials included a list of Frequently Asked Questions, a history of the Company, and a description of both the MCA program and the investment process. Fisher used the materials in soliciting clients to invest, attaching them to emails and using the information when they spoke to prospective investors. The marketing materials touted 1 Global’s alleged consistently high returns for investors. The Frequently Asked Questions claimed 1 Global investors had averaged “high single digit” and “low double digit” annual returns. In addition, 1 Global sent copies of monthly investor account statements to Fisher and other sales agents to show investors. Those account statements showed returns ranging from 8 to 17 percent a year.

24. Fisher solicited his existing advisory clients, insurance product customers, and

others to purchase 1 Global securities by e-mail, during dinner seminars, via telephone, among other methods. He discussed the merits of the investment, used and reviewed 1 Global's sales materials with prospective investors and forwarded investors' investment agreements and investment funds to 1 Global. At dinner seminars, Fisher told prospective investors that 1 Global's securities were short term alternatives to the main product he sold to customers – fixed index annuities.

25. Fisher required some investors to execute a risk disclosure form that he used. According to Fisher's form, the MCAs were not "securities or investment products." Fisher's risk disclosure characterized the 1 Global investment as low risk.

26. The MOI, the 1 Global document investors signed to make their investment in 1 Global, and which Fisher reviewed with investors, clearly stated that it was within 1 Global's sole discretion how to use investors' funds. Although Fisher reviewed the MOI in detail with potential investors, he never questioned this statement or how it contradicted the company's representations that investor funds were secured by MCAs.

27. Although 1 Global representatives told Fisher the Company had audited financial statements, Fisher never saw any despite requests to see them. Fisher also received copies of his clients' monthly 1 Global account statements containing statements about Daszkal Bolton's work. However, Fisher also never spoke to anyone at Daszkal Bolton to verify that the firm was 1 Global's "independent auditor," or whether it truly verified 1 Global's formula for determining investors' rates of return.

28. From no later than March 2017 through June 2018, Fisher used the 1 Global materials to offer and sell 1 Global's securities to investors via various means, including emails, telephone calls, and in-person meetings. 1 Global paid Fisher more than \$329,000 in transaction-

based sales commissions, earned as a result of Fisher raising approximately \$8.5 million in transactions with at least 80 investors. During the time he sold 1 Global notes in unregistered securities offerings, Fisher was neither a registered broker-dealer nor associated with a registered broker-dealer.

CLAIMS FOR RELIEF

COUNT I

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

29. The Commission repeats and realleges Paragraphs 1 through 28 of this Complaint as if fully set forth herein.

30. No registration statement was filed or in effect with the Commission pursuant to the Securities Act with respect to the securities Fisher offered and sold as described in this Complaint and no exemption from registration existed with respect to these securities.

31. From no later than March 2017 and continuing through June 2018, Fisher directly and indirectly:

- (a) made use of any means or instruments of transportation or communication in interstate commerce or of the mails to sell securities, through the use or medium of a prospectus or otherwise;
- (b) carried or caused to be carried securities 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 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 any prospectus or otherwise any security;

without a registration statement having been filed or being in effect with the Commission as to such securities.

32. By reason of the foregoing, Fisher 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)].

COUNT II

Violations of Section 15(a)(1) of the Exchange Act

33. The Commission repeats and realleges Paragraphs 1 through 28 of this Complaint as if fully set forth herein.

34. From no later than March 2017 and continuing through June 2018, Fisher, directly or indirectly, by the use of the mails or any means or instrumentality of interstate commerce effected transactions in, or induced or attempted to induce the purchase or sale of securities, while he was not registered with the Commission as a broker or dealer or not associated with an entity registered with the Commission as a broker-dealer.

35. By reason of the foregoing, Fisher violated, and unless enjoined is reasonably likely to continue to violate, Section 15(a)(1) of the Exchange Act [15 U.S.C. § 78o(a)(1)].

RELIEF REQUESTED

WHEREFORE, the Commission respectfully requests the Court find Fisher committed the violations alleged, and:

A.

Permanent Injunctive Relief

Issue a permanent injunction enjoining Fisher from violating Sections 5(a) and 5(c) of the Securities Act and Section 15(a)(1) of the Exchange Act.

B.

Disgorgement and Prejudgment Interest

Issue an Order directing Fisher to disgorge all ill-gotten gains or proceeds received as a result of the acts and/or courses of conduct complained of herein, with prejudgment interest thereon.

C.

Civil Money Penalty

Issue an Order directing Fisher to pay a civil money penalty pursuant to Section 20(d) of the Securities Act and Section 21(d) of the Exchange Act.

D.

Further Relief

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

E.

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.

JURY DEMAND

The Commission demands a jury trial on all issues so triable – the issues of whether Fisher is liable for violations of the securities laws.

March 22, 2021

Respectfully submitted,

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