UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

TERRY WAYNE KELLY AND KELLY MANAGEMENT, LLC,

Defendants,

Case No. 3:19-cv-585-DPJ-FKB

COMPLAINT

Plaintiff, Securities and Exchange Commission (the "Commission"), files its complaint and alleges that:

SUMMARY

1. Starting in late 2009, Terry Wayne Kelly ("Kelly"), operating directly and through his solely owned entity, Kelly Management, LLC ("Kelly Management") (collectively "Defendants"), sold millions of dollars in fraudulent promissory notes offered by Arthur Lamar Adams ("Adams") and Madison Timber Properties, LLC ("Madison Timber"), and informally managed a team of

salespersons who also sold the notes. Further, Kelly and Kelly Management sold unregistered securities while not registered as a broker-dealer.

2. By the conduct detailed in this Complaint, Kelly and Kelly Management violated Sections 5(a), 5(c) and 17(a) of the Securities Act of 1933 ("Securities Act") [15 U.S.C. §§ 77e(a), (c), and § 77q(a)], Sections 10(b) and 15(a) of the Securities Exchange Act of 1934 ("Exchange Act") [15 U.S.C. § 78j(b) and § 78o(a)] and Rule 10b-5 [17 C.F.R. § 240.10b-5]. Unless enjoined, Kelly and Kelly Management are likely to commit such violations again in the future.

3. The Commission seeks a judgment from the Court: (a) finding that Kelly and Kelly Management violated the registration and antifraud provisions of the federal securities laws; (b) enjoining Kelly and Kelly Management from engaging in future violations of the antifraud provisions of the federal securities laws; (c) ordering Kelly and Kelly Management to disgorge their ill-gotten gains described herein, with prejudgment interest; and (d) ordering Kelly and Kelly Management to pay a civil monetary penalty 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)].

JURISDICTION AND VENUE

4. The Commission brings this action pursuant to Sections 20(b) and 20(d) of the Securities Act [15 U.S.C. §§ 77t(b) and 77t(d)] and Section 21(d) the Exchange Act [15 U.S.C. § 78u(d)].

5. The 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 of the Exchange Act [15 U.S.C. §§ 78u(d), 78u(e), and 78aa].

6. Kelly and Kelly Management, directly or indirectly, used the means or instruments of interstate commerce, the mails, or the facilities of a national securities exchange in connection with the acts described herein.

7. Venue is proper under Section 22 of the Securities Act [15 U.S.C. § 77v], Section 27 of the Exchange Act [15 U.S.C. § 78aa] and 28 U.S.C. § 1391 because a substantial part of the events or omissions giving rise to the claims made herein occurred in the Southern District of Mississippi. In addition, Kelly resides in, and Kelly Management has its principal place of business in, Madison MS, which is within the Southern District.

DEFENDANTS

8. **Terry Wayne Kelly, Jr.**, age 46, lives in Madison, Mississippi.

9. **Kelly Management, LLC**, is a Mississippi limited liability company founded in 2008 that has its principal place of business in Madison, Mississippi. Kelly Management is solely owned and operated by Kelly, and is the entity through which he sold the Madison Timber promissory notes.

STATEMENT OF FACTS

10. Madison Timber was a Ponzi scheme and offering fraud primarily spearheaded by Adams.

11. Madison Timber raised large sums of money in exchange for promissory notes that promised a high rate of return. Madison Timber purported to use the invested funds to purchase timber rights from landowners in the Southeast, and allegedly generated profits by reselling the timber rights to lumber mills.

12. Starting in at least 2009, Kelly and Kelly Management began soliciting and selling promissory note investments for Madison Timber. Kelly also informally managed a team of note salespersons for Madison Timber. The sale of these promissory notes continued until April 19, 2018.

13. During the period he was involved, Kelly also managed Madison Timber investor payments and completed a variety of administrative tasks for Madison Timber.

14. The promissory note sales made by Kelly, Kelly Management and his sales team resulted in hundreds of investors and hundreds of millions of dollars in Madison Timber investments. Kelly earned a percentage commission on those note sales that ultimately brought him approximately $8 million.

15. Kelly and others under his direction made the same representations to investors that Adams did, i.e., that Madison Timber used the money to purchase timber rights, and would generate the investment returns from the sale of those rights.

16. In reality, Madison Timber did not use investor funds to purchase timber rights, and did not generate any material returns from selling those rights. Adams had created the false narrative and forged documents to support the ruse. Adams used investor funds for his own benefit, to pay sales people like Kelly, and to pay returns owed to earlier investors.

17. Kelly is civilly liable under 15 U.S.C. § 78j(b) for negligently and recklessly selling the Madison Timber promissory notes and performing other important administrative functions when he was aware of various red flags. These red flags included, among others, a meeting in October 2016 at which Kelly and Adams were confronted by a financial institution with questions regarding the business practices of Madison Timber.

18. Kelly negligently and recklessly made material misrepresentations to both prospective and existing investors, and others, regarding the Madison Timber note scheme even after he was aware of the red flags. Kelly and Kelly Management reaped approximately $4 million of their total $8 million in commissions after October 2016.

19. The promissory notes were not registered as securities with the Commission.

20. Neither Kelly nor Kelly Management were registered as broker-dealers with the Commission.

COUNT I- SELLING UNREGISTERED SECURITIES

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

21. The Commission re-alleges and reincorporates paragraphs 1 through 20 as if fully set forth herein.

22. Since approximately 2009, Defendants, without registration statements in effect as to the securities, directly or indirectly made use of means and instruments of transportation or communication in interstate commerce or of the mails to sell or offered to sell such securities through the use or medium of any prospectus or otherwise.

23. By reason of the foregoing, each of the Defendants violated the Section 5 (a) and (c) of the Securities Act [15 U.S.C. § 77e(a) and (c)].

COUNT II – FRAUD IN THE PURCHASE OR SALE OF SECURITIES

Violations of Section 10(b) of the Exchange Act and Rule 10b-5 Thereunder
[15 U.S.C. § 78j(b); 17 C.F.R. § 240.10b-5]

24. The Commission re-alleges and reincorporates paragraphs 1 through 20 as if fully set forth herein.

25. Since approximately 2009, Defendants, in connection with the purchase or sale of securities, by use of means or instrumentalities of interstate commerce or of the mails, or of any facility of any national securities exchange, directly or indirectly:

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

(b) made untrue statements of material facts and omitted to state facts necessary 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 or would operate as a fraud or deceit.

26. Defendants' misrepresentations, omissions, and acts, practices or courses of business which operated as a fraud or deceit were material.

27. Defendants acted with scienter by knowingly or with severe recklessness making the above-referenced misrepresentations and omissions, and engaging in acts, practices or courses of business which operated as a fraud or deceit.

28. By reason of the actions alleged herein, Defendants violated 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].

COUNT III –FRAUD IN THE OFFER OR SALE OF SECURITIES

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

29. The Commission re-alleges and reincorporates paragraphs 1 through 20 as if fully set forth herein.

30. Since approximately 2009, Defendants, directly or indirectly, in the offer or sale of securities, by use of any means or instruments of transportation or communication in interstate commerce or by use of the mails, employed a device, scheme or artifice to defraud.

31. Defendants made misrepresentations, omissions, and acts, practices or courses of business which operated as a fraud or deceit were material.

32. Defendants engaged in transactions, practices, or courses of business which operated as fraud or deceit upon purchases.

33. Defendants acted with scienter by knowingly or with severe recklessness making the above-referenced misrepresentations and omissions, and engaging in acts, practices or courses of business which operated as a fraud or deceit. Defendants also acted negligently.

34. By reason of the actions alleged herein, Defendants violated Section 17(a) of the Securities Act [15 U.S.C. § 77q(a)].

COUNT IV- SALE OF SECURITIES WHILE UNREGISTERED

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

35. The Commission re-alleges and reincorporates paragraphs 1 through 20 as if fully set forth herein.

36. By engaging in the conduct described above, Defendants made use of the mails or other means or instrumentalities of interstate commerce to effect transactions in, or to induce the purchase or sale of securities while not registered with the Commission as a broker or when they were not associated with an entity registered with the Commission as a broker or dealer.

37. By reason the foregoing, each of the Defendants violated Section 15(a) of the Exchange Act [15 U.S.C. § 78o(a)].

PRAYER FOR RELIEF

WHEREFORE, the Commission respectfully requests that the Court enter a judgment:

(i) finding that Defendants violated the registration and antifraud provisions of the federal securities laws as alleged herein;

(ii) permanently enjoining Defendants from violating Sections 5 and 17(a) of the Securities Act [15 U.S.C. §§ 77e and 77q(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) ordering Defendants to disgorge their ill-gotten gains and to pay prejudgment interest thereon;

(iv) ordering Defendants to pay a civil monetary penalty; and

(v) granting such other relief as this Court may deem just and proper.

DEMAND FOR JURY TRIAL

Pursuant to Rule 38 of the Federal Rules of Civil Procedure, the Commission demands trial by jury in this action of all issues so triable.

Dated this 20th day of August, 2019.

Respectfully submitted,

/s/ W. Shawn Murnahan

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