FILED
Harris County
MAR 23 2015
Time _____ Chris Daniel, District Clerk

FRANKWIN SISSINGH	§	IN THE DISTRICT COURT OF
	§	
v.	§	
YKVL PROPERTIES & INVESTMENTS, LLC, YUNG K. WALLACE, individually, WINSOME INVESTMENT TRUST, WINSOME FOUNDATION, INC., and ROBERT ANDRES, Individually	§	HARRIS COUNTY, TEXAS
	§	295 JUDICIAL DISTRICT

PLAINTIFF'S ORIGINAL PETITION

TO THE HONORABLE JUDGE OF SAID COURT:

Plaintiff FRANKWIN SISSINGH brings this lawsuit complaining of YKVL PROPERTIES AND INVESTMENTS, LLC, YUNG K. WALLACE, WINSOME INVESTMENT TRUST, WINSOME FOUNDATION, INC., and ROBERT ANDRES (“Defendants”) and would respectfully show the following:

I.
DISCOVERY

1. Plaintiff respectfully requests Discovery in this case be conducted under Level Three (3) pursuant to Rule 190.4 of the Texas Rules of Civil Procedure.

II.
REQUEST FOR DISCLOSURE

2. Pursuant to Rule 194 of the Texas Rules of Civil Procedure, Plaintiff requests that Defendants disclose, within fifty (50) days of service of this request, the information and material described in Rule 194.2 of the Texas Rules of Civil Procedure. Plaintiff specifically requests the responding parties to produce responsive documents at the undersigned law offices within fifty (50) days of service of this request.

III.
PARTIES

3. Plaintiff, FRANKWIN SISSINGH, is an individual residing in

4. Defendant, YKVL PROPERTIES AND INVESTMENTS, LLC, a Texas limited liability corporation whose registered office is in , may be served with process by serving its registered agent for service of process, Yung Wallace.

5. Defendant, YUNG K. WALLACE, an individual, may be served in this cause at his usual residence.

6. Defendant, WINSOME INVESTMENT TRUST, a business whose registered office is in , may be served with process by serving its trustee, Robert Andres, at that address or at the trustee’s home address.

7. Defendant, WINSOME FOUNDATION, INC, a Texas non-profit corporation whose registered office is in , may be served with process by serving its registered agent for service of process, Hi-Tec Filsernet, LLC, at

8. Defendant, ROBERT ANDRES, an individual, may be served with process at his usual residence,

IV.
JURISDICTION

9. This Court has jurisdiction over Defendants because Defendants have done business in Texas, committed a tort in Texas and have had continuous contacts with Texas. In addition, the damages for which Plaintiffs bring suit exceed the minimum jurisdictional limits of the court.

V.
VENUE

10. Venue is proper in Harris County, Texas as all or a substantial part of the events or omissions giving rise to Plaintiffs’ claims occurred in Harris County. Tex. Civ. Prac. & Rem. Code Ann. § 15.002(a)(1) (Vernon 2005).

VI.
FACTS

11. Plaintiff Frankwin Sissingh (“Sissingh”) lost $250,000.00, the entirety of his life savings, in a Ponzi scheme. In August 2006, Yung K. Wallace (“Wallace”) of YKVL Properties and Investments, LLC (“YKVL”) solicited and brokered an investment with Sissingh. Wallace told Sissingh his investment would be held by Winsome Investment Trust (“WIT”), operated by Robert Andres. Sissingh was to receive interest payments of $11,500.00 per month and his entire principal back at the end of the investment term or upon demand.

12. In June 2008, Defendants returned to Sissingh less than the contractually-promised $11,500.00 per month, and returns ceased altogether in September 2008. Sissingh demanded the full return of his principal according to the Agreement, but Defendants have wrongfully refused to return the full amount.

13. YKVL, Wallace, WIT, and Andres unlawfully offered and sold these securities in the State of Texas. Defendants were not authorized to offer or sell securities in Texas. However, YKVL and Wallace, despite not having a license, acted as securities brokers by offering and selling investment contracts on behalf of WIT. WIT acted as a securities issuer despite not having a license by offering and selling investment contracts to investors such as Sissingh.

14. Furthermore, on March 13, 2007, the California Department of Corporations issued to WIT and Andres a Desist and Refrain order for violation of California securities regulations through the sale of unregistered securities in the same manner as they have operated in Texas.

VII.
VIOLATIONS OF TEXAS SECURITIES ACT

15. Defendants have violated, conspired to violate and aided and abetted violations of the Texas Securities Act by selling unregistered securities and by making untrue statements of material fact and omissions of material fact regarding the true nature of the securities. Defendants violated the Texas Securities Act in one or more of the following ways:

a. Misrepresenting to Sissingh the rate of return, as Sissingh did not receive his promised returns;

b. Failing to disclose material facts, such as the California Department of Corporations Desist and Refrain Order issued against WIT and Andres for violating California securities laws;

c. Issuing, selling, brokering, and dealing securities in the form of investment contracts without registering with or receiving a permit from the Texas State Securities Board;

d. Misrepresenting that Defendants had the authority to act as securities advisors, brokers, and dealers;

e. Misrepresenting the nature and status of Sissingh’s invested assets; and

e. Misrepresenting that the investment would be returned on demand.

16. Plaintiff has suffered substantial damages as a result of Defendants’ acts and omissions.

VIII.
COMMON LAW FRAUD

17. Defendants engaged in fraudulent activities, including fraudulent inducement, fraudulent misrepresentation, conspiracy to defraud, and aiding and abetting a fraud. Defendants have engaged in common law fraud in one or more of the following ways:

a. Employing, conspiring to employ or aiding and abetting devices, schemes and conspiracies to defraud Sissingh;

b. Making, adopting or conspiring to adopt false statements of material fact or omitting material facts to create a misrepresentation; and

c. Engaging in acts and practices which operated to defraud Plaintiff in connection with his purchase and ownership of WIT securities.

18. Defendants had knowledge of or recklessly disregarded the fact that WIT was operating a fraudulent operation, but continued to misrepresent WIT’s financial condition in furtherance of the fraud.

19. Plaintiff relied on the false and misleading representations of each Defendant and has suffered substantial damages as a result of Defendants’ acts and omissions.

IX.
BREACH OF FIDUCIARY DUTY

20. Defendants owed a fiduciary duty to Plaintiff as securities brokers and issuers, and as financial advisors during the purchase of WIT securities. Defendants breached their fiduciary duties in one or more of the following ways:

a. Failing to act with due diligence;

b. Failing to refrain from fraud or misrepresentation;

c. Failing to act with loyalty and utmost good faith;

d. Failing to refrain from self-dealing;

e. Failing to act with integrity of the strictest kind;

f. Failing to engage in fair, honest dealing; and

g. Failing to fully disclose material facts.

21. Defendants’ breach caused Plaintiff to suffer substantial damages.

X.
NEGLIGENCE

22. Defendants owed various common law and professional duties to Plaintiff during the purchase of WIT securities. Defendants held themselves out as professional securities brokers and financial advisors and chose to hold to a heightened standard of care. Defendants breached this standard of care and were negligent in one or more of the following ways:

a. Failing to investigate WIT before selling WIT securities;

b. Failing to supervise the investigation of WIT before selling WIT securities;

c. Failing to exercise due diligence when investigating WIT before selling WIT securities;

d. Failing to investigate the representations made to Sissingh during and after the sale of WIT securities;

e. Failing to supervise the investigation of the representations made to Sissingh during and after the sale of WIT securities;

g. Misrepresenting material facts to Sissingh about WIT and WIT securities;

h. Misrepresenting the financial condition of WIT;

i. Advertising and sponsoring the sale of WIT securities; and

j. Inducing the sale of WIT securities with misleading statements about integrity and guarantees of insecure financial investments.

23. Defendants’ acts and omissions proximately caused Plaintiff’s injuries.

XI.
CONSPIRACY

24. Defendants conspired to accomplish an unlawful purpose or a lawful purposed by an unlawful means. Defendants had a meeting of the minds on the course of action and one or all committed an unlawful, overt act to further the object or their course of action. As a proximate result of Defendants’ wrongful acts, Plaintiff suffered injuries.

25. Specifically, YKVL was incorporated for the specific and unlawful purpose of creating a “middle-man” company to insulate the other Defendants from liability. YKVL was formed so other named Defendants could defraud their customers out of additional monies.

XII.
DAMAGES

26. Plaintiff respectfully requests the following damages to be considered separately and individually for the purpose of determining the sum of money that will fairly and reasonably compensate him:

a. Amount paid for WIT securities;

b. Loss or diminution of principal invested;

c. Loss of investment opportunity;

d. Loss of earnings (including lawful interest);

e. Commissions and fees incurred by way of investment in WIT securities; and

f. Mental anguish suffered.

XIII
EXEMPLARY DAMAGES

27. Defendants’ conduct, when viewed from the standpoint of the actors at the time of the occurrence, involved an extreme degree of risk, considering the probability and magnitude of the potential harm to others. Furthermore, Defendants’ conduct illustrates not only an attitude of conscious indifference for the rights, safety and welfare of others, but also shows Defendants’ actual and subjective awareness of the dangers of such conduct.

28. Nevertheless, these Defendants proceeded with actual awareness of the falsity and/or conscious indifference to the rights, safety or welfare of others, including Plaintiff. Therefore, Defendants are liable for exemplary/punitive damages at common law and by statute.

XIV.
ATTORNEY FEES

29. It was necessary for Plaintiff to hire the undersigned attorney to file this lawsuit. Upon judgment, Plaintiff is entitled to and requests an award of attorney fees and costs as provided by Tex. Rev. Civ. Stat. art. 581-33.

XV.
JURY DEMAND

30. Plaintiff DEMANDS A TRIAL BY JURY and submits the appropriate fee.

XVI.
CONDITIONS PRECEDENT

31. All conditions precedent have been performed or have occurred as required by Texas Rule of Civil Procedure 54.

XVII.
PRAYER

32. For the above reasons, Plaintiff prays he has judgment against Defendants, with interest on the judgment at the legal rate, pre-judgment interest, costs of court and for such other further relief, both in law and equity, to which Plaintiff may show himself justly entitled.

Respectfully Submitted,

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