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**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

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U.S. DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

**SECURITIES AND EXCHANGE
COMMISSION,**

Plaintiff,

v.

**ONE EQUITY CORPORATION,
TRIANGLE EQUITIES GROUP, INC.,
VICTORY MANAGEMENT GROUP, INC.,
DAFCAN FINANCE, INC.,
MICHAEL S. SPILLAN and
MELISSA K. SPILLAN,**

Defendants.

Case No:

2:08-cv-00667

JUDGE SARGUS

MAGISTRATE JUDGE AREL

COMPLAINT

Plaintiff, Securities and Exchange Commission (“Commission”), for its Complaint against One Equity Corporation (“One Equity”), Triangle Equities Group, Inc. (“Triangle”), Victory Management Group, Inc., (“Victory”), and Dafcan Finance, Inc. (“Dafcan”) (collectively “the One Equity Companies”), Michael S. Spillan, and Melissa K. Spillan (“the Spillans”) alleges as follows:

NATURE OF THE COMPLAINT

1. The Commission brings this action to stop a fraudulent stock based loan program. From at least 2004 through the present, Michael Spillan a convicted felon, and his wife Melissa Spillan, One Equity, Dafcan, Triangle and Victory raised about \$70 million dollars from

approximately 125 borrowers from all over the globe, by holding themselves out as stock based lenders, underwriters or administrators. The Spillans raised the money by inducing borrowers to transfer ownership of millions of shares of publicly traded stock to them as collateral for purported non-recourse loans based on a false promise to return the shares to borrowers who repaid their loans. Unbeknownst to the borrowers, the Spillans generally sold all of the shares that the One Equity Companies received from them to fund each loan. Because the One Equity Companies agreed to loan 10 to 50 percent less than the market value of the shares transferred, they retained substantial sales proceeds, even after funding each loan. They also received interest payments. The Spillans, however, did not set aside any cash reserves to repurchase and return shares to borrowers who repay their loans. Instead, they used all the money to pay expenses, including over \$1 million in salary and other benefits to themselves. Currently, the Companies owe millions of dollars to certain borrowers, but do not have the stock or cash to repay them. The Spillans, nevertheless continue to solicit new borrowers.

2. Through their actions, the Spillans, and the One Equity Companies have violated Section 10(b) of the Securities Exchange Act of 1934 (“Exchange Act”) [15 U.S.C. § 78j(b)], and Rule 10b-5 promulgated thereunder [17 C.F.R. § 240.10b-5].

3. Accordingly, the Commission seeks: (a) a temporary restraining order, an order of preliminary injunction and an order of permanent injunction enjoining the defendants from current and future violations of federal securities laws, (b) an asset freeze to avoid dissipation of assets pending the resolution of this action, (c) an accounting, (d) expedited discovery, (e) an order prohibiting the destruction, mutilation, concealment, alteration or disposition of books and records, (f) disgorgement of all ill-gotten gains, (g) appointment of a receiver and (h) civil penalties, and other ancillary and equitable relief as is sought herein and may be appropriate.

THE DEFENDANTS

4. One Equity Corporation is a Delaware corporation located in Westerville, Ohio. Michael Spillan owns 70 percent of One Equity's stock and is a vice president, chief compliance officer and director of the company. Melissa Spillan owns ten percent of One Equity and is One Equity's only other director. The company holds itself out as a stock based lender.

5. Triangle Equities Group, Inc. is a Delaware corporation located in Westerville, Ohio. Melissa Spillan owns 70 percent of Triangle's stock and is the president and a director of the company. Michael Spillan is its only other director. One Equity owns the other 30 percent of Triangle's stock. Triangle holds itself out as a stock based lender and the administrator of loans generated by One Equity, Dafcan and Victory.

6. Victory Management Group, Inc. is a Nevada corporation located in Westerville, Ohio. Michael Spillan is the president and a director of Victory. Melissa Spillan is its only other director. One Equity owns all of Victory's stock. The Spillans have used accounts in Victory's name to receive and sell stock given by borrowers as collateral for loans. Recently, the company entered into a stock loan agreement with a borrower.

7. Dafcan Finance, Inc. is a Delaware corporation located in Westerville, Ohio. It was operating for at least several months prior to becoming a corporation in August 2007. Melissa Spillan is the president of Dafcan and a director. Michael Spillan is the only other director. Triangle owns all of Dafcan's stock. Dafcan holds itself out as a stock based lender.

8. Michael S. Spillan is 41 years old and lives in Gahanna, Ohio. He refused to appear for investigative testimony, citing his Fifth Amendment privilege against self-incrimination. Michael Spillan has a long criminal record that includes several convictions in the State of Ohio and one federal conviction, all relating to fraudulent conduct. In 2004, he was

convicted on state charges of forgery, theft and unlawful possession of dangerous explosives. The theft and forgery convictions were for using false documents in an attempt to collect over \$400,000 in unclaimed funds held by the State of Ohio that did not belong to him. He was released in March 2007, after serving 26 months of a four-year sentence.

9. Melissa K. Spillan is 38 years old and lives in Gahanna, Ohio. She is married to Michael Spillan. She helped run the stock loan scheme alleged herein while her husband Michael Spillan was in prison. She refused to appear for investigative testimony, citing her Fifth Amendment privilege against self-incrimination.

JURISDICTION AND VENUE

10. The Court has jurisdiction over this action pursuant to Sections 21(e) and 27 of the Exchange Act [15 U.S.C. §§78u(e) and 78aa]. Venue is proper pursuant to Section 27 of the Exchange Act [15 U.S.C. § 78aa].

11. Defendants, directly and indirectly, have made use of the means and instruments of transportation and communication in interstate commerce, of the means and instrumentalities of interstate commerce, and of the mails, in connection with the purchase and sale of securities, in connection with the transactions, acts, practices, and courses of business alleged herein, within the jurisdiction of the Southern District of Ohio and elsewhere.

12. The anti-fraud provisions of the federal securities laws as set forth herein apply to any offer, purchase, or sale of a security, regardless of whether that security is registered with the Commission.

FACTS

**DEFENDANTS' MISREPRESENTATIONS
AND MISLEADING OMISSIONS**

The Stock Based Loan Program

13. The Spillans control the One Equity Companies, which hold themselves out as stock based lenders, underwriters or affiliated loan administrators. The One Equity Companies obtain potential customers through a website maintained under Triangle's name and through other forms of advertising. They also receive referrals from individuals or entities that hold themselves out as stock loan brokers. During 2006 and 2007, the One Equity Companies paid over \$2.7 million in fees to its two most significant stock loan brokers.

14. The One Equity Companies, directly or through their stock loan brokers, offer to make non-recourse loans to individuals or entities in return for shares of publicly held stock as collateral. The Spillans marketed the stock loan program as an opportunity for potential borrowers to unlock the equity in their shares of stock, to hedge against a decrease in the share price, and to retain the right to reacquire their shares for the amount owed on the loan if the price increases. For example, as of June 2, 2008, Triangle's website described its stock loan program as follows:

Triangle Equities Group's Non-Recourse Stock Loans:

Our stock lending process is simple. We use your stock . . . as a foundation to give you a secured loan while you keep profiting from the equity you have built in your investment . . . Our stock loan programs provide secured loans from \$5,000 to a million dollars plus. Our stock loans let you retain the right to reacquire your stock for the amount owed on the loan, no matter how much more valuable your

stock may have become. There are no hidden fees, no closing costs, and no margin calls. . . . [W]e consider only the market value, volatility and average trading volume of the stock under consideration to determine the amount of the loan. We offer up to 90% loan-to-values. During the life of the loan, you are provided with many options in choice of terms, renewal, and exit strategies.

Hedging can protect your investment while freeing up equity for other purposes.

Take advantage of this opportunity that was once only available to high net worth individuals.

15. When a potential borrower contacts the One Equity Companies, directly or through a stock loan broker, the One Equity Companies typically offer to loan 50 to 90 percent of the market value of the shares that the borrower proposes to use as collateral, depending on factors such as trading market, volume and price volatility. If the potential borrower accepts the loan proposal, the One Equity Companies send the borrower a loan agreement, promissory note, and other documents, such as instructions on how to transfer stock to the One Equity Companies (the "Loan Agreement").

16. One Equity, Triangle, Dafcan and Victory have all been parties to loan agreements, but the key provisions are virtually the same. In a typical Loan Agreement, the borrower agrees to transfer ownership of his or her shares to the One Equity Companies:

In consideration for [the One Equity Companies'] agreement to make the Loan upon satisfaction of certain conditions precedent, Borrower shall transfer to [the One Equity Companies] . . . shares of . . . Stock. . . . Borrower agrees that [the One Equity Companies] shall become the record holder of the stock from the date of this Agreement until the Loan is repaid according to the terms of the

Promissory Note or until the conditions precedent of the Agreement have failed, at which time the stock will be reconveyed to Borrower. Borrower acknowledges that the conveyance of the stock may extinguish Borrower's rights in the Stock.

17. In exchange, the One Equity Companies agree to fund the borrower's loan within 7 to 30 days of "receipt, deposit and verification of the provenance and marketability of the shares." Prior to October 2007, the Loan Agreement did not explain how the One Equity Companies intended to verify the marketability of the shares. In or about October 2007, the One Equity Companies, at the direction of the Spillans, added language to the Loan Agreement (the "Revised Loan Agreement"). The Revised Loan Agreement states that the "funding commitment is conditioned upon . . . the aforesaid verification of the provenance and marketability of the shares, verification which will require the sale of some of the stock in the open market." The One Equity Companies agree to return the shares to the borrower promptly if they do not fund the loan.

18. If the One Equity Companies fund the loan, the borrower agrees to make monthly or quarterly interest-only payments to the One Equity Companies, based on a variable interest rate. The length of the One Equity Companies' current loans ranges from open-ended to ten years. There are no prepayment penalties. Triangle sends invoices and collects interest payments from borrowers as the purported loan administrator for all the entities. The Loan Agreement does not obligate the One Equity Companies to retain ownership of the stock during the term of the loan. The Revised Loan states that the One Equity Companies "employ various strategies to manage the stock transferred and conveyed . . . , including without limitation selling some or all of the Stock."

19. The One Equity Companies agree to return a like number of shares to the borrower within 30 days after the borrower repays his or her loan amount, no matter how much the share price increases during the term of the loan:

Borrower and [The One Equity Companies] agree that upon repayment by Borrower under the terms of the Promissory Note, [The One Equity Companies] shall cause the Stock to be assigned to Borrower . . . Borrower acknowledges that the Stock is fungible, and that [The One Equity Companies are] not obligated to assign the same shares of Stock . . . Rather, [The One Equity Companies'] obligation is to reassign to Borrower shares identical in number, class and kind.

20. If, on the other hand, the stock price decreases substantially, the borrower may choose to stop making interest payments and keep the loan proceeds. If the borrower defaults on the Loan Agreement, the One Equity Companies agree to "look solely to the proceeds of the sale of the Stock for satisfaction of all principal due under the Promissory Note."

The Stock Based Loan Program is a Fraudulent Scheme

21. The Spillans own One Equity, Triangle, Dafcan and Victory and hold various positions, such as director, president, vice president or chief compliance officer. They control all the trading and banking activities of the One Equity Companies. Since 2004, the One Equity Companies have received millions of shares of publicly traded stock from approximately 125 borrowers in connection with purported stock loan transactions. The Spillans sold all of the stock, generating about \$70 million in proceeds. Generally, they sold virtually all of the stock before funding each loan. They used the sales proceeds to fund the Companies' loans and to pay its expenses, including over \$1 million in salaries and other benefits to themselves. The Spillans have not set aside any cash reserves to repurchase and return shares to borrowers who repay their

loans. As of June 17, 2008, the market value of the shares transferred by 21 borrowers exceeded the value of their loans by \$7.7 million, but the Companies did not have any of those shares and less than \$100,000 in their accounts.

22. The stock loan program is, in fact, a fraudulent scheme perpetrated by the Spillans to acquire shares of publicly traded stock from borrowers at a 10 to 50 percent discount, to sell the shares for full market value, and to use the proceeds for their own benefit. The Spillans, through Triangle's website and the One Equity Companies' loan agreements, have made false statements and omitted to state other important facts in connection with their scheme.

23. Specifically, the Spillans and the One Equity Companies: (a) failed to disclose to borrowers that they intended to sell substantially all their shares before the One Equity Companies funded their loans; (b) misrepresented to the borrowers that the One Equity Companies would return the shares to them, no matter how much the share price increased in value once the loans were repaid; (c) attempted to take advantage of a declines in the stock price after selling a substantial amount of shares but before funding original loan obligations; and (d) failed to disclose to borrowers that Michael Spillan has a long criminal history and numerous convictions for fraud related crimes.

24. The One Equity Companies have a pattern of failing to repurchase and return shares to borrowers. Since May 2007, Charles Mottley, Nexus Holdings, Inc., Javeed Matin and Robert Schwartz have all filed lawsuits against the Companies and others in the United States District Court for the Southern of Ohio to recover shares of stock after the One Equity Companies sold their shares, but failed to fund their loans. A fifth borrower, Andrew Hoff has been attempting to repay his loan and reacquire his shares for six months. The Spillans persuaded a sixth borrower, Gilbert Reynolds, to accept cash the in lieu of shares and have been making

small payments to him over the last 16 months. The One Equity Companies still owe him approximately \$30,000.

DEFRAUDED BORROWERS OF ONE EQUITY COMPANIES

Andrew Hoff

25. Andrew Hoff applied for a stock based loan through a stock loan broker, who referred him to One Equity. Hoff signed a loan agreement with One Equity on March 7, 2006, in which he pledged two million shares of Zix Corp. ("Zix") stock as collateral. At that time, Hoff's shares had a market value of \$3,280,000, or \$1.64 per share. One Equity agreed to loan him 75 percent of the market value, for a loan of \$2,460,000. On March 23, 2006, Hoff transferred two million shares of Zix to One Equity. One Equity sold all but five of the shares from April 3 to April 19, 2006 generating about \$2.6 million in sale proceeds.

26. Hoff received his loan proceeds in several installments after making repeated calls to the stock loan broker. In November 2007, Hoff decided that he wanted to repay the loan and obtain his Zix shares. The price of the stock had risen to over \$3.50 per share. Hoff contacted a stock loan broker to find out how to reacquire his shares. The loan agreement stated that One Equity would return the shares no later than 30 days after Hoff repaid the loan. A representative of the stock loan broker advised Hoff to consult an attorney because civil lawsuits had been filed against One Equity. Hoff retained an attorney and has been attempting to reach an agreement with One Equity to repay his loan and to reacquire his shares through an escrow arrangement. During the time Hoff has been negotiating with One Equity, the One Equity Companies have not had any Zix shares or enough cash to repurchase and return shares to him. For example, as of June 17, 2008, One Equity needed \$4.4 million in cash to repurchase and return the shares to Hoff, but the Companies had less than \$100,000 to meet that obligation. Michael Spillan and

others at One Equity did not tell Hoff that the company sold all of the Zix shares three weeks after it received them or that the One Equity Companies do not have the money to repurchase his shares.

Javeed Matin

27. Javeed Matin is the founder and president of Veltex Corporation (“Veltex”), a clothing manufacturer and distributor. On February 8, 2007, Matin signed a loan agreement to borrow \$528,000 from the defendant Dafcan in return for two million shares of Veltex stock owned by Matin. The loan amount was based on 60 percent of the stock price, which was trading at \$.044. Prior to entering into the loan agreement, Matin insisted that defendant Dafcan provide a written assurance that it did not intend to sell the Veltex shares. Veltex intended to use the loan proceeds to raise the market value of Veltex stock through a stock repurchase program. In a letter to Matin dated the same date as the loan agreement and signed by defendant Melissa Spillan, Dafcan represented the following:

It is not the policy of this company to engage in the short sale of a borrower’s stock. We do not sell stock below current market price in any event, nor do we arbitrarily liquidate a borrower’s shares absent an event of default or a necessary exercise of discretionary authority to protect the interest of Dafcan and our borrowers. Dafcan does conduct a test trade of shares we have received to verify their marketability and provenance. Test trades do not ordinarily exceed five percent of the shares received.

28. On March 6, 2007, Matin transferred two million shares of Veltex stock to One Equity. From March 7 to April 3, 2007, One Equity sold all two million shares, accounting for 42 percent of the total trading volume during this period. The price of the stock dropped 36

percent, from \$.28 to \$.18 per share. There is evidence that Defendant Michael Spillan or others at the One Equity Companies also attempted to drive the price down by posting negative statements about Veltex on various internet sites. During his lawsuit, Matin traced some of the negative postings to Michael Spillan's computer address. On March 15, 2007, One Equity reduced the amount it was willing to loan Matin from \$528,000 to \$348,000, "due to a downward fluctuation of the market price" and ultimately sent him a check for \$313,200 on March 28, 2007. One Equity received about \$400,000 from its Veltex sales. One Equity did not tell Matin that it had sold the shares of Veltex stock. On May 22, 2007, Matin filed a lawsuit against the One Equity Companies, the Spillans and others. The Companies ultimately settled the lawsuit in September 2007.

Robert Schwartz

29. Robert Schwartz signed a loan agreement with One Equity on September 12, 2007 for a loan of \$717,600 in exchange for 2.3 million shares of Nuclear Solutions, Inc. ("Nuclear Solutions"). The loan amount was based on 65 percent of the stock price, which was trading at \$0.48. On September 26, 2007 Schwartz transferred 2.3 million shares of Nuclear Solutions to One Equity. One Equity sold all of the shares from October 4 to October 12, 2007. One Equity's sales accounted for 24 percent of the total trading volume. The stock price dropped from \$.41 per share to \$.24 per share.

30. One Equity did not fund Schwartz' loan. On October 9, 2007 defendant Michael Spillan sent an e-mail to the broker that arranged for the Schwartz loan. Spillan stated that he expected the loan proceeds to be wired to Schwartz later that day. The next day, after Schwartz still had not received the funds, Spillan sent another e-mail to the broker stating that the wire transfer was being processed that morning, and that the funds would be posted to Schwartz's

