

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO.

SECURITIES AND EXCHANGE COMMISSION,)
)
Plaintiff,)
v.)
)
ROBERT J. VITALE and REALTY ACQUISITIONS)
AND TRUST, INC.,)
)
Defendants.)
)
and)
)
CORAL SPRINGS INVESTMENT GROUP, INC.,)
)
Relief Defendant.)
)
_____)

COMPLAINT

Plaintiff United States Securities and Exchange Commission (the "Commission") alleges:

SUMMARY OF ALLEGATIONS

1. This case concerns a fraudulent offering of securities that was orchestrated and carried out by Defendants Robert J. Vitale ("Vitale") and Realty Acquisitions & Trust, Inc. ("RATI"). Between 2004 and 2010, Vitale and RATI solicited and raised at least \$8.7 million from investors in connection with four real estate securities offerings of RATI, a South Florida based private company that Vitale established. In connection with these securities offerings, Vitale and RATI made numerous materially false and misleading statements and omissions concerning, among other things: the credentials and experience of Vitale and other purported RATI officers; Vitale's supposed reputation for honesty in the investment world; the safety of

investing in RATI; and the ownership of the properties purchased with RATI investor proceeds. These misstatements and omissions were designed to enhance the attractiveness of, and to induce investors to invest monies in, the RATI offerings. By engaging in this conduct, Vitale and RATI violated Section 17(a) of the Securities Act of 1933 ("Securities Act") as well as Section 10(b) of Securities Exchange Act of 1934 ("Exchange Act") and Exchange Act Rule 10b-5 promulgated thereunder. Vitale also effected transactions in securities for the account of others without being registered as a broker in connection with his RATI activities, and, by so doing, violated both the unregistered-broker statute (Section 15(a) of the Exchange Act) and an August 31, 2006 Commission Order that barred him from any association with any broker or dealer (Section 15(b)(6)(B)). Finally, at all relevant times, no registration statement was on file with the Commission or in effect with respect to any of the RATI offerings or sales described herein. Accordingly, Vitale and RATI violated Section 5 of the Securities Act.

2. Unless enjoined by this Court, Vitale and RATI will likely continue to engage in such violations, and in acts, practices, and transactions of similar purport and object.

JURISDICTION

3. This Court has jurisdiction over this action pursuant to Securities Act Sections 20(b) and 22(a) [15 U.S.C. §§ 77t(b) and 77v(a)] and Exchange Act Sections 21(d), 21(e) and 27 [15 U.S.C. §§ 78u(d), 78u(e) and 78aa]. Certain of the transactions, acts, practices, and courses of business constituting the violations of law alleged herein occurred within this judicial district.

THE DEFENDANTS

4. Robert J. Vitale, age 42, is an inmate housed in the Miami Federal Detention Center in Miami, Florida, where he is serving a two-year sentence for perjury and obstruction in the investigation giving rise to the filing of this action. Vitale established RATI in 2004 and has

been its chairman, principal officer and director, and “property financial expert” from the time of RATI’s inception through the present. Vitale has also been the President and Director of Coral Springs Investment Group, Inc. from its inception in 2004 through the present.

5. Realty Acquisitions & Trust, Inc. is a Florida company incorporated in 2004. Defendant Vitale has been the founder, chairman, principal officer and director, and “property financial expert,” from its inception to the present. All of the subject real estate securities offerings orchestrated by Vitale were issued through RATI.

THE RELIEF DEFENDANT

6. Coral Springs Investment Group, Inc. (“CSIG”) is a Florida company incorporated in 2004, and an alter ego of Defendant Vitale. Defendant Vitale has been the President and Director of CSIG, from its inception through the present. CSIG is not alleged to have engaged in any securities laws violations but holds or controls assets and/or funds that represent fruits of violations by the Defendants that are the subject of this Complaint. Vitale holds his primary residence and office in the name of CSIG.

FACTS

7. Vitale formed RATI in 2004 for the stated purpose of RATI acquiring, improving, and selling at a profit, residential and commercial real estate in South Florida. Thereafter, Vitale and RATI, using the mails and the instruments of interstate commerce, solicited and sold shares in RATI’s four securities offerings, titled the Series A, B, C, and D offerings.

8. According to the Private Offering Memoranda (“POM”) for these offerings, investors in the offerings were entitled to share in the future proceeds of the sales of certain residential and commercial South Florida properties, which were to be purchased, renovated and

improved using the offerings' proceeds, and ultimately resold, all under the direction of Vitale and RATI.

9. Between November 2004 and at least February 2010, Vitale and RATI sold at least \$8.7 million worth of the RATI offerings' shares to at least 52 investors, including numerous senior citizens.

10. No registration statement was ever filed with the Commission or has ever been in effect with respect to any of these offerings or sales.

Misrepresentations Concerning Vitale's and Other Purported RATI Officers' Credentials

11. In the POMs and other solicitations that Vitale authored, signed, distributed and/or otherwise used to solicit funds from RATI investors, and over which he was the ultimate authority, Vitale misrepresented his own credentials and those of his brother and mother, both also purportedly RATI principals.

12. In brochures presented to prospective investors, which he signed, Vitale described himself as RATI's "founder and property financial expert, [who] *graduated from Notre Dame with a degree in business in 1993*" (emphasis added).

13. In fact, as Vitale and RATI knew at the time these materially misleading statements were made, Vitale had no college degree, in business or otherwise, and did not attend college at all (though he did obtain a 1989 diploma from a certain Notre Dame High School in West Haven, Connecticut).

14. Similarly, in the POM for the Series D offering, Vitale and RATI said of Vitale's brother (and purported RATI Vice President), Anthony Vitale: "From October 1980 to March 2004 *Anthony was the majority owner of Statewide Petroleum, an oil company in Connecticut*" (emphasis added); while numerous RATI investor brochures, which also included the foregoing

language, added, “[Anthony] *graduated from South Central College in 1975 with a degree in business finance.*” (Emphasis added.)

15. In fact, as Vitale and RATI knew at the time these materially misleading statements were made, Anthony Vitale had no college degree, had never attended college, and had merely worked in a sales position at, and had never been an owner of, Statewide Petroleum.

16. Regarding RATI’s purported president—Vitale’s mother, Ann Vitale—the Vitale-authored investor-solicitation materials misleadingly stated: “Ann worked in the banking industry for over 40 years. *Her expertise is in managing clients’ money.*”

17. In fact, as Vitale and RATI knew at the time these materially misleading representations were made, Vitale’s mother had worked only as a bank teller and bank teller supervisor.

Misrepresentations Concerning Vitale’s Reputation in the Investment Industry

18. In their solicitations to RATI investors, Vitale and RATI repeatedly stressed Vitale’s purported integrity and honesty as a selling point: In a “Letter from the Founder” that Vitale signed and routinely included with investor solicitation materials, Vitale stated, “Though there are very few people of integrity left in the investment industry, *we have become enormously successful through our honesty ...*” (emphasis added). Vitale and RATI also routinely stated in other RATI solicitation materials, “We are members of the Southeast Florida chapter of the Better Business Bureau [“BBB”] and ... *have built a reputation of great honesty and integrity in the investment world*” (emphasis added), adding that adherence to “*truth and integrity in advertising*” (emphasis added) was a BBB principle that RATI and Vitale scrupulously followed.

19. Despite making these claims, Vitale never disclosed either (i) the SEC enforcement action against him—which had charged securities fraud stemming from an alleged market manipulation occurring while Vitale worked as a stockbroker in South Florida, and had been filed in 2004, well before the RATI offerings commenced, or (ii) his 2006 settlement of that action and the sanctions to which he agreed, including an antifraud injunction, disgorgement, civil penalties, and a broker-dealer bar. See *SEC v. Surgent et al.*, Civil Action No. 04-60493-CV (S.D. Fla., filed April 16, 2004); *In the Matter of Robert Vitale*, Rel. No. 34-54393 (Aug. 31, 2006).

Misrepresentations Concerning the Safety and Security of Investing in RATI

20. Vitale and RATI also made numerous material misrepresentations concerning the safety and security of an investment in RATI, claiming in RATI solicitation letters they sent to investors over Vitale's signature: (i) "... nothing makes me prouder than to tell each and every one of you, my valued investors, that *your principal investment is always 100% protected*. And, with the state of the economy – especially the equity markets these days, *knowing your principal is protected is a value you can't put a price on*" (emphasis added) and (ii) "...it must be a great feeling for all of you to know that whatever happens, *your principle [sic] investment amount has and always will be protected.*" (Emphasis added.)

21. In fact, as RATI and Vitale knew when these statements were made, RATI investors' funds were not "100% protected." In fact, as Vitale and RATI well knew, some or all of RATI investors' principal was at all times subject to loss due to real estate market fluctuations, as well as further risk of loss due to the manner (detailed below) in which Vitale and RATI had the properties titled and mortgaged.

Misrepresentations Concerning the Use of the RATI Offerings' Proceeds

22. Vitale and RATI used the investors' funds to purchase a total of twelve South Florida properties. Of those twelve, however, Vitale and RATI caused only one to be titled in RATI's name: a commercial property, located at 2319 South Federal Highway in Boynton Beach, Florida, and more particularly described as Robinson Addition, Lots 1-5, recorded in plat book 23, page 144 of the Public Records of Palm Beach County, Florida (hereinafter the "South Federal Highway Property"), whose full \$2.4 million purchase price was paid with investor funds, with another \$400,000 in investor funds being used to pay for demolition of the building formerly there.

23. As to the other eleven properties purchased with investor proceeds, Vitale and RATI made only approximately 20% down-payments on each, taking out mortgages on the balances, and titling nine of them in Vitale's own name and the remaining two in the name of his mother (and RATI's purported president), Ann Vitale.

24. According to the RATI offering materials, however, the properties to be acquired, improved, and later sold, would all be titled in RATI's name or "*in the name of a related party LLC.*" (Emphasis added.) The RATI offering materials stated, for example, that "*the Company is seeking to purchase properties ...*" and repeatedly referred to properties to be purchased as "*the Company's properties.*" (Emphasis added). Thus, titling all but one of the properties in Vitale's own and his mother's name was materially misleading.

25. While Vitale and RATI later disclosed in the POM for the Series D offering that Vitale and his mother were the titleholders of the properties purchased with RATI proceeds, this disclosure was made after the vast majority of the funds had been raised. Moreover, in making this disclosure, Vitale and RATI also falsely assured investors that "*Robert Vitale and Ann Vitale*

are now in the process of transferring all Projects that they purchased in their names with the Proceeds to RATI (the corporation), which RATI estimates will take 6 to 8 months." (Emphasis added). Such transfers were never made and the remaining properties are still controlled by Vitale and his mother through various alter ego entities.

Vitale Acts as an Unregistered Broker and Violates His Broker-Dealer Bar

26. In making his solicitations and sales of the unregistered RATI securities offerings between 2004 and at least 2010, Vitale solicited investors, advised investors as to the merits of the investment, participated in the securities transactions, received commissions, and exercised control over investor funds and securities, all without being registered as a broker in accordance with Section 15(b) of the Exchange Act from at least August 2006 onward.

27. On August 31, 2006, Vitale was barred from association with any broker or dealer pursuant to a Commission Order (the "Order"). *In the Matter of Robert Vitale*, Rel. No. 34-54393 (Aug. 31, 2006).

28. Since entry of the Order, Vitale was not given consent by the Commission to begin associating with any broker or dealer again. By acting as an unregistered broker between 2006 and 2010, as alleged in paragraph 26, Vitale thus violated the terms of the Order.

Vitale, RATI and CSIG Obtained Investor Funds

29. Through the conduct described above, Vitale and RATI fraudulently raised \$8.7 million from RATI investors out of which, among other things, at least \$481,000 in "management fee(s)" were paid to Vitale alter ego and relief defendant CSIG, and the 2319 South Federal Property referenced above, which is still titled in RATI's name, was purchased.

30. Vitale caused the aforementioned \$481,000 in management fees to be paid in the form of checks drawn on RATI's bank account, funded with RATI investors' funds, and made

payable to Vitale's alter ego, CSIG. CSIG remains in possession of these and other illegally obtained RATI investor funds, or assets purchased with such funds, to which CSIG has no legitimate claim.

FIRST CLAIM FOR RELIEF

**FRAUD IN THE OFFER OR SALE OF SECURITIES
(Violations of Section 17(a) of the Securities Act)**

31. Paragraphs 1 through 30 are realleged and incorporated by reference.

32. By engaging in the conduct described above, Vitale and RATI, directly or indirectly, in the offer or sale of securities, by the use or means or instruments of transportation or communication in interstate commerce or by the use of the mails:

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

(b) have obtained money or property by means of untrue statements of material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; and

(c) have engaged in transactions, acts, practices and courses of business which operated as a fraud upon purchasers of securities.

33. By reason of the foregoing, Vitale and RATI violated Securities Act Section 17(a) [15 U.S.C. § 77q(a)].

SECOND CLAIM FOR RELIEF

**FRAUD IN CONNECTION WITH THE PURCHASE OR SALE OF SECURITIES
(Violations of Section 10(b) of the Exchange Act Section and Rule 10b-5 thereunder)**

34. Paragraphs 1 through 30 are realleged and incorporated by reference.

35. By engaging in the conduct described above, Vitale and RATI, directly or indirectly, by the use of the means and instrumentalities of interstate commerce, or of the mails, in connection with the purchase or sale of securities:

- (a) have employed devices, schemes, or artifices to defraud;
- (b) have made untrue statements of material fact, or have omitted, or are omitting and are about to omit to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; and
- (c) have engaged in transactions, acts, or practices and courses of business which operated or would operate as a fraud upon purchasers of securities.

36. By reason of the foregoing, Vitale and RATI violated Exchange Act Section 10(b) [15 U.S.C. § 78j(b)] and Rule 10b-5 promulgated thereunder [17 C.F.R. § 240.10b-5].

THIRD CLAIM FOR RELIEF

UNREGISTERED OFFER AND SALE OF SECURITIES (Violations of Section 5 of Securities Act)

37. Paragraphs 1 through 30 are realleged and incorporated by reference.

38. The RATI offerings described herein constitute “securities” within the meaning of 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)].

39. At all relevant times, the RATI offerings and sales described herein were not registered in accordance with the provisions of the Securities Act.

40. Vitale and RATI, and each of them, directly or indirectly, made use of the means or instruments of transportation or communication in interstate commerce or of the mails to offer

and sell securities when no registration statement had been filed or was in effect as to such securities and when no exemption from registration was applicable.

41. By engaging in the foregoing conduct, defendants Vitale and RATI violated Section 5 of the Securities Act [15 U.S.C. § 77e].

FOURTH CLAIM FOR RELIEF

ACTING AS AN UNREGISTERED BROKER (Violations of Section 15(a) of the Exchange Act)

42. Paragraphs 1 through 30 are hereby realleged and incorporated by reference.

43. By engaging in the conduct described above, Vitale has acted as a broker and has made use of the mails and other means or instruments of interstate commerce to effect transactions in securities, or to induce or attempt to induce the purchase or sale of securities, without being registered in accordance with Section 15(b) of the Exchange Act [15 U.S.C. § 78o(b)].

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

FIFTH CLAIM FOR RELIEF

VIOLATING A BROKER-DEALER ASSOCIATIONAL BAR (Violation of Section 15(b)(6)(B) of the Exchange Act)

45. Paragraphs 1 through 30 and 43-44 are hereby realleged and incorporated by reference.

46. By reason of the foregoing, Vitale violated Section 15(b)(6)(B) of the Exchange Act [15 U.S.C. § 78o(b)(6)(B)]

PRAYER FOR RELIEF

WHEREFORE, the Commission respectfully requests that this Court:

- (i) Issue findings of fact and conclusions of law that the defendants committed the violations charged herein;
- (ii) Find that Relief Defendant CSIG is in possession of illegally obtained investor funds or assets purchased with such funds to which Relief Defendant has no legitimate claim;
- (iii) Grant a final judgment of permanent injunction restraining and enjoining Vitale and RATI and their agents, servants, employees, attorneys in fact, and assigns and those in active concert or participation with them, and each of them, from
 - a. Violating Section 5 of the Securities Act [15 U.S.C. § 77e];
 - b. Violating Section 17(a) of the Securities Act [15 U.S.C. § 77q(a)] and Section 10(b) [15 U.S.C. § 78j(b)] and Rule 10b-5 promulgated thereunder [17 C.F.R. § 240.10b-5], including by, directly or indirectly, (1) creating a false appearance or otherwise deceiving any person, or (2) disseminating any false or misleading documents, materials, or other information or making, either orally or in writing, any false or misleading statement in any communication with any investor or prospective investor, about (A) any investment in or offering of securities, (B) the experience, education or other qualifications of any person involved or purportedly involved in any respect in the operation or management of any such investment or offering, (C) the use of investor funds, (D) the risks of the investment, or (E) otherwise concerning any matters

reasonably relating to a decision by an investor or prospective investor to invest, or to buy, sell or hold any such investment;

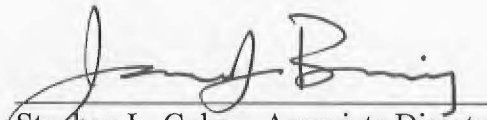
- (iv) Grant a final judgment of permanent injunction restraining and enjoining Vitale and his agents, servants, employees, attorneys in fact, and assigns and those in active concert or participation with him, and each of them, from:
 - a. violating Section 15(a) of the Exchange Act [15 U.S.C. § 78o(a)]; and
 - b. violating Section 15(b)(6)(B) of the Exchange Act [15 U.S.C. § 78o(b)(6)(B)]
- (v) Order Vitale, RATI and Relief Defendant Coral Springs Investment Group, Inc. to jointly and severally disgorge the ill-gotten gains from the violations alleged herein, plus prejudgment interest thereon;
- (vi) Order Vitale and RATI to pay civil penalties pursuant to Section 21(d) of the Exchange Act [15 U.S.C. § 78u(d)];
- (vii) Grant such other and further relief as the Court may deem just, equitable and necessary; and

- (viii) Retain jurisdiction over this action in order to implement and carry out the terms of all orders or 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.

Respectfully submitted,

April 23, 2014

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