

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION

UNITED STATES SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff,

v.

BENJAMIN SYDNEY STAPLES, an individual and
BENJAMIN ONEAL STAPLES, an individual

Defendants,

and

BRIAN STAPLES,

Relief Defendant.

Civil Action No.:

COMPLAINT FOR INJUNCTIVE RELIEF

Plaintiff, Securities and Exchange Commission (the “Commission”), for its Complaint against Defendants Benjamin Sydney Staples and Benjamin Oneal Staples (collectively, “Defendants” or the “Staples”) alleges as follows:

INTRODUCTION

1. This matter involves fraudulent conduct by Benjamin Sydney Staples (“Ben Staples”) and his son, Benjamin Oneal Staples (“Oneal Staples”) designed to profit from the deaths of terminally ill individuals.

2. From early 2008 through approximately June 2012, the Staples operated the Estate Assistance Program (the “Program,”) which effectively turned the deaths of terminally ill

individuals into a profit-making enterprise by purchasing and redeeming corporate bonds that contained a “survivor's option.”

3. The Staples identified terminally ill individuals and recruited them into the Program by offering to pay for their funeral expenses. In exchange, the terminally ill participant agreed to open a joint brokerage account with Ben Staples, Oneal Staples or both.

4. Although the ill participants opened joint brokerage accounts with the Staples, the Staples required them to relinquish any ownership rights to any assets purchased in those accounts through the execution of side agreements. The Staples required all Program participants to sign an “Estate Assistance Agreement” and a “Participant Letter,” both of which relinquished the terminally ill participant’s ownership interest in the assets in the joint account.

5. After a joint account was opened, the Staples purchased discounted corporate bonds containing a “survivor's option,” which allowed the Staples to redeem the bonds for the full principal amount prior to maturity if, among other things, a joint owner of the bond died.

6. After a terminally ill participant died, the Staples wrote a letter to each brokerage firm where the Staples and that participant had a joint account. In that letter, the Staples asked that the bonds in the joint account be redeemed pursuant to the “survivor's option.”

7. The Staples’ early redemption of these bonds constitutes a sale of the bonds to the bond issuers.

8. In their redemption request letters to the brokerage firms, the Staples misrepresented that the deceased participant was an “owner” of the bonds, when in fact the deceased had relinquished all ownership interest in the bonds.

9. The Staples further failed to inform the brokerage firms or bond issuers that the deceased Program participants had signed the Estate Assistance Agreements and Participant Letters relinquishing all ownership interest in the bonds.

10. These misrepresentations and omissions were material and as a result of them, the Staples profited at least \$6.5 million from the deaths of their Program participants.

JURISDICTION AND VENUE

11. This Court has subject matter jurisdiction by authority of Sections 20 and 22 of the Securities Act of 1933 (the “Securities Act”) [15 U.S.C. §§ 77t and 77v] and Sections 21 and Section 27 of the Securities Exchange Act of 1934 (the “Exchange Act”) [15 U.S.C. §§ 78u and 78aa].

12. Defendants, directly and indirectly, singly and in concert, have made use of the means and instrumentalities of interstate commerce and the mails in connection with the transactions, acts and courses of business alleged herein, certain of which have occurred within the District of South Carolina.

13. Venue for this action is proper in the District of South Carolina under Section 22(a) of the Securities Act [15 U.S.C. § 77v(a)] and under Section 27 of the Exchange Act [15 U.S.C. § 78aa] because certain of the transactions, acts, practices, and courses of business alleged in this Complaint took place in this district and because the Defendants reside in and transact business in this district.

14. Defendants, unless restrained and enjoined by this Court, will continue to engage in the transactions, acts, practices, and course of business alleged herein and in transactions, acts, practices, and courses of business of similar purport and object.

15. Defendants' conduct took place in connection with the offer, purchase and/or sale of corporate bonds, which are securities.

THE DEFENDANTS

16. **Benjamin Sydney Staples**, age 62, resides in Lexington, South Carolina. He created and operated the Estate Assistance Program.

17. **Benjamin Oneal Staples**, age 28, resides in Lexington, South Carolina. He was recruited by his father, Ben Staples, to work full time in operating the Estate Assistance Program.

RELIEF DEFENDANT

18. **Brian Staples**, age 25, resides in Lexington, South Carolina. He received approximately \$400,000 in proceeds from the Estate Assistance Program.

RELATED ENTITY

19. **Palmetto Estate Assistance Trust, LLP** ("Palmetto") is a South Carolina Limited Partnership with its principal place of business in Lexington, South Carolina. Its sole principal is Ben Staples, who used Palmetto as a signatory to the Estate Assistance Agreements. Ben Staples managed, operated and controlled Palmetto.

STATEMENT OF FACTS

20. In early 2008, Ben Staples created the Estate Assistance Program with the intent to profit from the deaths of terminally ill individuals by purchasing discounted corporate bonds containing a "survivor's option" and redeeming the bonds early, upon the death of the terminally ill individual, for the bond's full principal amount.

21. From 2008 through approximately June 2012, Ben Staples and his son, Oneal Staples, operated the Program, through which they purchased at least \$26.5 million in bonds from at least 35 issuers. Ben Staples and Oneal Staples recruited at least 44 terminally ill

participants into the Program and profited at least \$6.5 million from the Program. The profit was the difference between the discounted price of the bonds the Staples purchased and the full principal amount they were able to obtain through early redemption of the bonds.

22. The Staples' Program was simple. First, they identified individuals whose death was imminent and who were concerned about being able to afford the costs of their funeral.

23. The Staples recruited the terminally ill individuals into the Program by offering to pay for their funeral expenses if the terminally ill individuals agreed to open a joint brokerage account with the Staples.

24. In order to join the Program, the Staples required the terminally ill individuals to sign three documents: (a) an application to open a joint brokerage account with Ben Staples, Oneal Staples, or both; (b) an Estate Assistance Agreement; and (c) a Participant Letter.

25. Both the Estate Assistance Agreement and the Participant Letter required the terminally ill participant to relinquish any ownership rights in the joint accounts or any assets in them.

26. The Estate Assistance Agreement required the terminally ill participants to deliver to Palmetto, an entity the Staples used in the Program's operation, a "Power of Attorney providing it with sole control of the Account set up jointly with the parties and specifically waiving and assigning any interest in [the participant's] rights in the account to Palmetto, its members, affiliates and associates."

27. In the Participant Letter, the terminally ill individuals agreed that they, "through this agreement waive any rights that [they] have to the account." In this letter the participants further acknowledged that the transfer of ownership rights to the Staples was permanent, and

stated that they “understand that this agreement is binding on [their] personal representatives and heirs.”

28. After signing the joint brokerage account application, the Estate Assistance Agreement and the Participant Letter, the terminally ill individuals had effectively applied for a joint brokerage account but at the same time had relinquished any ownership rights they had to assets purchased in those accounts.

29. Once a brokerage firm opened a joint account between the Staples and the Program participants, the Staples purchased discounted corporate bonds that contained a “survivor’s option” in those accounts.

30. A “survivor’s option” is a provision featured in some corporate bonds that requires the bond issuers to repay the full principal amount of the bonds prior to maturity following the death of a beneficial owner if certain requirements are met.

31. To comply with the terms of the survivor’s option, the decedent must be an owner of the bond at the time of their death.

32. Upon the death of a Program participant, the Staples wrote a letter to the brokerage firm asking that the corporate bonds be redeemed early pursuant to the survivor’s option. This request for early redemption of the corporate bonds constituted a sale of the bond to the bond issuer.

33. In letters to the brokerage firms, the Staples misrepresented the ownership interest the deceased participants had in the bonds. In these letters, the Staples state that they are requesting early redemption on behalf of the “deceased owner,” when in fact the deceased participants had no ownership interest in the bonds since the Staples had required them to relinquish this ownership.

34. Throughout the account opening process and the redemption process, the Staples failed to inform the brokerage firms or the bond issuers that the deceased participants had relinquished all ownership interest in the bonds by signing the Estate Assistance Agreement and the Participant Letter.

35. When the Staples redeemed their bonds under the survivor's option, they falsely claimed that the decedents were owners of the bonds when in fact the deceased participants had relinquished all ownership interest in the bonds through the Estate Assistance Agreement and the Participant Letter.

36. The above misrepresentations and omissions are material because ownership of the bonds is required in order to redeem the bonds under the survivor's option.

37. The above misrepresentations and omissions occurred in connection with the sale of a security because the early redemption of the corporate bonds, which are securities, constituted a sale of the bond to the bond issuer.

38. Ben Staples and Oneal Staples acted with scienter. They operated the Estate Assistance Program with the intent to deceive the brokerage firms and the bond issuers about the ownership interest that their deceased participants had in the bonds. The Staples were aware that each Program participant had relinquished all ownership rights in the bonds and despite knowing this, they falsely represented that they were entitled to redeem the bonds pursuant to the survivor's option because the deceased were "owners" of the bonds.

39. From the profit obtained through his fraudulent acts set forth above, Ben Staples deposited approximately \$400,000 into the account of his son, Brian Staples.

40. Brian Staples had no active role in the Program and received these funds unjustly.

FIRST CAUSE OF ACTION
EMPLOYMENT OF A DEVICE, SCHEME OR ARTIFICE TO DEFRAUD
Violation of Section 17(a)(1) of the Securities Act [15 U.S.C. § 77q(a)(1)]

41. The Commission realleges and incorporates by reference the allegations contained in the paragraphs above.

42. Defendants, and each of them, by engaging in conduct described above, directly or indirectly, in the offer or sale of securities, by the use of the means or instruments of transportation or communication in interstate commerce or by use of the mails, with scienter, employed devices, schemes, or artifices to defraud.

43. By reason of the foregoing, Defendants directly or indirectly, violated, and unless restrained and enjoined by this Court, will continue to violate Section 17(a)(1) of the Securities Act [15 U.S.C. § 77q(a)(1)].

SECOND CAUSE OF ACTION
FRAUD IN THE OFFER AND SALE OF SECURITIES
Violations of Section 17(a)(2) and (3) of the Securities Act [15 U.S.C. § 77q(a)(2) and (3)]

44. The Commission realleges and incorporates by reference the allegations contained in the paragraphs above.

45. Defendants, and each of them, by engaging in the conduct described above, directly and indirectly, in the offer and sale of securities, by the use of the means or instruments of transportation or communication in interstate commerce or by use of the mails, obtained money or property by means of untrue statements of material fact or by omitting to state a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading, and engaged in transactions, practices, or courses of business which operate or would operate as a fraud or deceit upon the purchaser.

46. By reason of the foregoing, Defendants, directly or indirectly, violated, and unless restrained and enjoined will continue to violate, Sections 17(a)(2) and 17(a)(3) of the Securities Act [15 U.S.C. §§ 77q(a)(2) and 77q(a)(3)].

**THIRD CAUSE OF ACTION
FRAUD IN CONNECTION WITH THE PURCHASE AND
SALE OF SECURITIES
Violations of 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]**

47. The Commission realleges and incorporates by reference the allegations contained in the paragraphs above.

48. Defendants, and each of them, by engaging in the conduct described above, directly or indirectly, by the use of the means and instrumentalities of interstate commerce or use of the mails, in connection with the purchase or sale of securities, with scienter, (1) employed devices, schemes, or artifices to defraud; (2) made untrue statements of material fact or omitted to state a material fact necessary in order to make statements made, in light of the circumstances under which they were made not misleading; or (3) engaged in acts, practices, or courses of business that operated or would operate as a fraud and deceit upon other persons.

49. By reason of the foregoing, Defendants violated, and unless restrained and enjoined will continue to violate Section 10(b) of the Exchange Act [15 U.S.C. § 78j(b)] and Rule 10b-5 thereunder [17 C.R.F. § 240.10b-5].

**FOURTH CAUSE OF ACTION
UNJUST ENRICHMENT**

50. The Commission realleges and incorporates by reference the allegations contained in the paragraphs above.

51. As a result of the unlawful conduct of Defendants, Relief Defendant has thus been unjustly enriched, and it would be unjust and inequitable for him to retain those funds and/or property.

RELIEF REQUESTED

WHEREFORE, the Commission respectfully requests that this Court:

I

Issue findings of fact and conclusions of law that Defendants committed the violations charged herein.

II

Issue in a form consistent with Rule 65(d) of the Federal Rules of Civil Procedure orders that temporarily, preliminarily and permanently enjoin Ben Staples and Oneal Staples and their officers, agents, servants, employees, attorneys, and accountants, and those persons in active concert or participation with any of them, who receive actual notice of the order by personal service or otherwise, and each of them, from engaging in transactions, acts, practices, and courses of business described herein, and from engaging in conduct of similar purport and object in violation of Sections 17(a) of the Securities Act and Section 10(b) of the Exchange Act and Rule 10b-5 thereunder.

III

Enter an order directing Defendants, and each of them, to pay civil money penalties pursuant to Section 20(d) of the Securities Act and Section 21(d)(3) of the Exchange Act.

IV

Enter an order directing Defendants to disgorge all ill-gotten gains received during the period of violative conduct and pay prejudgment interest on such ill-gotten gains.

V

Declare and impose a constructive trust on all property received by Relief Defendant and require him to disgorge the funds or property he obtained from Defendants as a result of the illegal conduct alleged herein.

VI

Retain jurisdiction of this action in accordance with the principles of equity and the Federal Rules of Civil Procedure in order to implement and carry out the terms of all orders and decrees that may be entered, or to entertain any suitable application or motion for additional relief within the jurisdiction of this Court.

Respectfully submitted,

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