

ORIGINAL

FILED

MAY 23 2002

CCM

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION

LARRY W. FROPPES, CLERK
CHARLESTON, SC

SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff,

v.

SOUTHERN FINANCIAL GROUP, INC.,
RICHARD M. WOOTEN, CHARLES DENNIS
MCKITTRICK AND GERALD F. HUNTER,
JR.

Defendants, and

and

SPRINGDALE INVESTMENTS, INC.,

Relief Defendant.

CIVIL ACTION FILE

NO. 2 02 1806-18

Complaint For Injunctive And Other Relief

The plaintiff, Securities and Exchange Commission ("Commission" or the "Plaintiff"), files this complaint and alleges the following:

Summary

1. This matter involves a Ponzi scheme operated by defendants Southern Financial Group, Inc. ("Southern"), Richard M. Wooten ("Wooten"), Charles Dennis McKittrick ("McKittrick") and Gerald F. Hunter, Jr. ("Hunter").

2. Southern is a securities broker-dealer with offices located in Columbia and Summerville, South Carolina. Wooten is

its president and CFO. McKittrick is its chairman and CEO. Hunter is a registered representative.

3. The defendants have been operating a Ponzi scheme since at least January 2000 and have sold at least \$89 million in notes pursuant to that scheme. The actual amount raised appears to be approximately \$25 million, due to rollovers. However, the defendants obtained for their own purposes at least \$9 million of that amount, including \$5.3 million that was gratuitously transferred to relief defendant Springdale Investments, Inc. ("Springdale"), an entity controlled by the defendants.

4. The Ponzi scheme involved the sale of three month notes paying ten per cent per month interest. The defendants have conducted 19 consecutive offerings of the notes. Interest and principal payments to investors in one offering have been made from funds raised in a subsequent offering. Although the notes are purportedly secured by real estate, the alleged issuer of the notes, UC Properties LLC, does not have sufficient assets to pay off the notes and does not know how much it owes on the notes to investors.

5. In addition to operating a Ponzi scheme, Southern operated in violation of the net capital rule from at least October 2001 through May 16, 2002. The net capital rule essentially requires broker-dealers to maintain a certain amount of liquid assets or to cease operations. Southern currently has

negative net capital. Until at least May 16, 2002, the firm declined to cease transacting business, despite suggestions from the Commission's staff that it do so.

6. The firm's books and records and certain reports filed with the Commission were also inaccurate during the relevant period.

7. The Commission brings this action to enjoin defendants Southern, Wooten, McKittrick and Hunter from violations of the federal securities laws, for disgorgement of their ill-gotten gains, civil penalties and other relief. This action also seeks to recover funds that the defendants transferred to relief defendant Springdale under the theory of unjust enrichment.

8. By virtue of its conduct, Southern has engaged and, unless enjoined, will continue to engage, in violations of Section 17(a) of the Securities Act of 1933 ("Securities Act"), 15 U.S.C. 77q(a), Section 10(b) of the Securities Exchange Act of 1934 ("Exchange Act"), 15 U.S.C. 78j(b), and Rule 10b-5 [17 C.F.R. 240.10b-5], Section 15(c)(3) of the Exchange Act [15 U.S.C. 78o(c)(3)] and Rules 15c3-1 and 15c3-3 [17 C.F.R. 240.15c3-1 and 240.15c3-3], promulgated thereunder and Section 17(a) of the Exchange Act [15 U.S.C. 78q(a)] and Rules 17a-3, 17a-5 and 17a-11 [17 C.F.R. 240.17a-3, 240.17a-5 and 240.17a-11], promulgated thereunder.

9. By virtue of their conduct, defendants Wooten, McKittrick and Hunter have engaged and, unless enjoined, will continue to engage, in violations of Section 17(a) of the Securities Act, 15 U.S.C. 77q(a), Section 10(b) of the Exchange Act, 15 U.S.C. 78j(b), and Rule 10b-5 [17 C.F.R. 240.10b-5].

10. By virtue of their conduct, defendants Wooten and McKittrick have aided and abetted Southern's violations of Section 15(c)(3) of the Exchange Act [15 U.S.C. 78o(c)(3)] and Rules 15c3-1 and 15c3-3 [17 C.F.R. 240.15c3-1 and 240.15c3-3], promulgated thereunder and Section 17(a) of the Exchange Act [15 U.S.C. 78q(a)] and Rules 17a-3, 17a-5 and 17a-11 [17 C.F.R. 240.17a-3, 240.17a-5 and 240.17a-11], promulgated thereunder.

11. By virtue of its conduct, relief defendant Springdale has been unjustly enriched by at least \$5 million and should be compelled to disgorge the unjust enrichment with prejudgment interest thereon.

Jurisdiction And Venue

12. The Commission brings this action pursuant to Sections 20(b), (c) and (d) of the Securities Act [15 U.S.C. 77t(b)-(d)] and Sections 21(d) and 21(e) of the Exchange Act [15 U.S.C. 78u(d)-(e)], to enjoin the Defendants from engaging in the transactions, acts, practices and courses of business alleged in this Complaint, and transactions, acts, practices and courses of

business of similar purport and object, for disgorgement of ill-gotten gains, civil penalties and other relief.

13. This 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].

14. The Defendants, directly and indirectly, have made use of the mails, the means and instrumentalities of transportation and communication in interstate commerce, and the means and instruments of interstate commerce, in connection with the transactions, acts, practices, and courses of business alleged in this Complaint.

15. Venue lies in this Court pursuant to Section 22(a) of the Securities Act [15 U.S.C. 77v(a)] and Section 27 of the Exchange Act [15 U.S.C. 78aa], because certain of the transactions, acts, practices and courses of business constituting violations of the Securities Act and Exchange Act have occurred within the District of South Carolina and the defendants reside or have offices in South Carolina.

The Defendants

16. Southern Financial Group, Inc. ("Southern") is a South Carolina corporation with offices, among other places, in Columbia and Summerville, South Carolina. Southern at all relevant times has been registered with the Commission as a

broker-dealer pursuant to the provisions of Section 15(b) of the Exchange Act [15 U.S.C. 78o(b)]. Southern is a wholly owned subsidiary of Atlantic Securities Exchange, Inc. ("ASE").

17. Richard M. Wooten ("Wooten"), 43 years of age, resides in Columbia, South Carolina and serves as Southern's president and chief financial officer.

18. Charles Dennis McKittrick ("McKittrick"), 53 years of age, resides in Summerville, South Carolina and serves as the firm's Chairman and chief executive officer.

19. Gerald F. Hunter, Jr. ("Hunter"), 31 years of age, resides in South Carolina and is a registered representative with Southern.

Relief Defendant

20. Springdale Investments, Inc. is a South Carolina corporation that may be served by service upon its registered agent, Richard M. Wooten, at 1331 Elmwood Avenue, Suite 305, Columbia, South Carolina.

Facts

21. Southern is a registered broker and dealer and a member of the National Association of Securities Dealers, Inc. ("NASD"). Pursuant to its membership agreement with the NASD and because of

the nature of its business, Southern is required to maintain net capital of at least \$100,000 at all times.

22. Southern has five branch office locations located in South Carolina, Virginia, Florida and California. The firm's main office is located in Columbia, South Carolina. Much of Southern's investment banking activity as described below took place in Southern's Summerville, South Carolina office.

23. Defendants Wooten and McKittrick managed and controlled the activities of Southern.

24. Defendant Hunter worked as a registered representative in Southern's Summerville, South Carolina office until early 2002 when he moved to another Southern office.

25. Until May 17, 2002, Southern had approximately 8,000 retail customers and executed an average of 2,000 trades per month for those customers.

The Ponzi Scheme

26. Since 1999, Southern has conducted underwriting services for UC Properties, LLC ("UC Properties") and other entities related to the University Club of America, Inc. ("UCA"), and related entities including the University Club Group, Inc. ("UC Group").

27. McKittrick and Hunter managed and controlled Southern's investment banking business from Southern's office in Summerville, South Carolina. McKittrick and Hunter sold the various offerings Southern made to investors that are described below. Wooten in his capacity as the company's president and chief financial officer knew about and permitted the offerings, knew when UC Properties was in default on its payments to noteholders, and knew when funds were transferred from the escrow accounts established for the various offerings into Southern's operating account.

28. Since 1999, Southern has conducted at least 19 short-term note offerings for UC Properties. Southern has also conducted at least four other debt offerings for entities related to UCA and a few offerings for unrelated entities. The total face amount of the short-term note offerings on behalf of UC Properties exceeds \$89 million. The face amount of the other offerings conducted by Southern exceeds \$13 million.

29. Beginning in 1999 and continuing at least until May 6, 2002, Southern sold nineteen offerings on behalf of UC Properties. Those offerings were identified as UC Properties Short Term Notes, Series I through XVIII ("UC Properties Short Term Notes") and UC Properties Secured Notes. These offerings were sold to approximately 300 investors located in South Carolina and elsewhere.

30. The UC Properties Short Term and Secured Notes that Southern sold to investors are 90 day notes paying interest at a rate of 10% per month.

31. Hunter, McKittrick and other employees of Southern sold these notes to investors.

32. Among other things, investors were told that UC Properties could afford to pay this high rate of return to the investors in its short-term notes because UC Properties was refinancing its real estate holdings. In some instances, investors were told that UC Properties was 'going public.'

33. Investors who purchased these short-term notes were told that there was sufficient collateral in certain real estate owned by UC Properties to secure the payment of the short-term notes. In fact, the collateral is not sufficient to pay the notes.

34. The UC Properties Short Term Notes have been in default since late 2001. Subsequent investors have not been informed about the ongoing default.

35. Investors were not told that UC Properties had been unable to timely make payments to some investors.

36. Southern placed the proceeds from the offerings of UC Properties Short Term Notes and from the UC Properties Secured Notes in one or more escrow accounts.

37. Funds held in these escrow accounts from the sales of UC Properties short-term and secured notes were transferred to a "Distribution Account" from which principal and interest payments to investors in earlier offerings of short-term notes were paid.

38. Defendants McKittrick and Hunter directed the payments and transfers of funds from the escrow accounts for each offering and directed the payments and transfers of funds from the Distribution Account.

39. Defendants Southern, Wooten, McKittrick and Hunter operated the notes offerings Southern made on behalf of UC Properties as a Ponzi scheme in that they used money raised from later investors to pay principal and interest payments owed to earlier investors.

40. Investors who purchased the UC Properties Short Term Notes were not told that money from later offerings of these notes were used to make principal and interest payments to new investors.

41. Southern raised approximately \$2.2 million from the offering of the UC Properties Secured Notes, although \$600,000 of that total was subsequently returned to an investor. Southern transferred approximately \$1.1 million of this total from the escrow account for the UC Properties Secured Notes offering to its own operating accounts. Wooten was aware of Southern's cash

position and knew about these transfers into the firm's operating account.

42. When asked to explain why they transferred the \$1.1 million to Southern's operating accounts, defendants Wooten and McKittrick claimed that UC Properties owed Southern approximately \$5 million in investment banking fees from prior offerings and that the \$1.1 million was charged against that debt.

43. Southern's books and financial records do not disclose this purported obligation by UC Properties. Defendants Wooten and McKittrick have claimed that the \$5 million is not shown on Southern's books as a receivable since they did not believe it was collectible.

44. Investors who purchased the UC Properties Secured Notes through Southern were not told that UC Properties was unable to pay \$5 million in investment banking fees, if UC Properties truly owed such amount.

45. Southern's books and financial records disclose that Southern has been paid fees out of every short-term note offering that it did for UC Properties in the years 2000 and 2001.

46. On other occasions, Southern made unauthorized withdrawals of funds from UC Properties short-term note escrow accounts to pay its bills and operating expenses.

47. At least \$5 million was transferred by the defendants from the escrow accounts to Springdale. Springdale provided no goods or services for these payments and was unjustly enriched by the receipt of the \$5 million.

Net Capital Violations

48. As a registered broker-dealer, Southern was and is required to have and maintain at all times a certain amount of net capital, as required by Section 15(c) of the Exchange Act and Rule 15c3-1 thereunder. From at least January 2000 to the present, Southern was required to maintain net capital of not less than \$100,000.

49. From sometime in 1999 through at least March 2002, Southern served as an underwriter for various short-term note offerings by UC Properties and others. Many of these underwritings were conducted on a minimum-maximum basis.

50. Since at least October 30, 2001, Southern's books and financial records have inaccurately reflected a cash balance in an account ranging from \$226,931.80 to \$240,0906.80. The table below shows the cash balances Southern reported for the account and the actual balance in that account for the months ending October 2001, November 2001, January 2002, February 2002, and March 2002, respectively:

DATE	REPORTED BALANCE	ACTUAL BALANCE	ACTUAL NET CAPITAL
10/01	\$240,000	\$910	(\$92,535)
11/01	\$240,000	\$910	(\$83,124)
1/02	\$229,006	\$13,946	(\$64,955)
2/02	\$239,006	\$946	(\$98,568)
3/02	\$226,931	\$931	(\$56,815)

As shown by the table above, Southern's net capital deficiency at the ends of the months of October 2001, November 2001, January 2002, February 2002, and March 2002 ranged from (\$156,815) to (\$198,568).

51. At all times during this period, the overstatement of this balance allowed the firm to reflect a net capital position that appeared, falsely, to be in compliance with the net capital rule. Adjustments to reflect the bank accounts actual cash balances from October 31, 2001 through May 8, 2002 show that the firm had a net capital deficiency in the amount of \$192,537.53 for the period ending October 30, 2001, \$217,175.31 on November 30, 2001, \$174,955.93 on January 31, 2002, \$198,568 on February 28, 2002, and \$156,805 on March 31, 2002.

52. Section 17 of the Exchange Act and Rule 17a-11 thereunder require registered broker-dealers to promptly give notice to the Commission and others when its net capital declines below the minimum amount required by law.

53. Southern failed to file any notifications of its net capital deficiencies as required by Rule 17a-11 until May 8, 2002.

54. Southern also failed to reflect certain liabilities on its books and financial records which impacted its net capital computations.

55. Wooten, as chief financial officer and financial principal at Southern, was responsible for Southern's books and records.

56. Southern failed to record liabilities owed to a credit card and service company in the amount of \$95,051. Southern also failed to record clothing store invoices in the amount of \$48,356 that were billed to Southern.

57. Southern failed to record in the firm's books a liability owed to settle a claim with an investor in the amount of \$242,500.

58. Each of the foregoing adjustments caused or increased the firm's net capital deficiency.

59. Rule 17a-5 requires registered brokers and dealers to periodically file reports, called FOCUS reports, which, among other things, accurately reflect its true financial condition.

60. Southern filed the reports required by Rule 17a-5 for the months of October, November and December 2001 and for the months of January, February and March, 2002. However, the reports filed by Southern were inaccurate in that they

misrepresented Southern's cash position and failed to include certain liabilities as described above.

61. During the period from October 31, 2001 through the present, Southern effected thousands of customer transactions while failing to maintain net capital of at least \$100,000.

62. Wooten and McKittrick directed the firm to continue to transact business while they knew it was below the required net capital and while its books and records were materially inaccurate. Wooten and McKittrick failed to send the Rule 17a-11 notifications of behalf of Southern.

Count I -Fraud

**Violations of Section 17(a) (1) of the Securities Act
[15 U.S.C. § 77q(a) (1)]**

63. Paragraphs 1 through 62 are hereby realleged and are incorporated herein by reference.

64. From at least 1999 through at least April 2002, Defendants Southern, Wooten, McKittrick and Hunter, in the offer and sale of the securities described herein, by the use of means and instruments of transportation and communication in interstate commerce and by use of the mails, directly and indirectly, employed devices, schemes and artifices to defraud purchasers of such securities, all as more particularly described above.

65. In engaging in such conduct, the Defendants acted with scienter, that is, with an intent to deceive, manipulate or defraud or with a severe reckless disregard for the truth.

66. By reason of the foregoing, the Defendants Southern, Wooten, McKittrick and Hunter, directly and indirectly, have violated and, unless enjoined, will continue to violate Section 17(a)(1) of the Securities Act [15 U.S.C. § 77q(a)(1)].

Count II--Fraud

**Violations of Sections 17(a)(2) and 17(a)(3) of the Securities Act
[15 U.S.C. §§ 77q(a)(2) and 77q(a)(3)]**

67. Paragraphs 1 through 62 are hereby realleged and are incorporated herein by reference.

68. From at least 1999 through at least April 2002, Defendants Southern, Wooten, McKittrick and Hunter, in the offer and sale of the securities described herein, by use of means and instruments of transportation and communication in interstate commerce and by use of the mails, directly and indirectly:

- a) obtained money and property by means of untrue statements of material fact and omissions 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

b) engaged in transactions, practices and courses of business which would and did operate as a fraud and deceit upon the purchasers of such securities,

all as more particularly described above.

69. By reason of the foregoing, Defendants Southern, Wooten, McKittrick and Hunter, directly and indirectly, have violated and, unless 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)].

Count III--Fraud

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]

70. Paragraphs 1 through 62 are hereby realleged and are incorporated herein by reference.

71. From at least 1999 through at least April 2002, Defendants Southern, Wooten, McKittrick and Hunter, in connection with the purchase and sale of securities described herein, by the use of the means and instrumentalities of interstate commerce and by use of the mails, directly and indirectly:

- a) employed devices, schemes, and artifices to defraud;
- b) made untrue statements of material facts and omitted 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) engaged in acts, practices, and courses of business which would and did operate as a fraud and deceit upon the purchasers of such securities,
all as more particularly described above.

72. The Defendants knowingly, intentionally, and/or recklessly engaged in the aforementioned devices, schemes and artifices to defraud, made untrue statements of material facts and omitted to state material facts, and engaged in fraudulent acts, practices and courses of business. In engaging in such conduct, the Defendants acted with scienter, that is, with intent to deceive, manipulate or defraud or with a severe reckless disregard for the truth.

73. By reason of the foregoing, the Defendants Southern, Wooten, McKittrick and Hunter, directly and indirectly, have violated and, unless 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.F.R. 240.10b-5].

Count IV-- - Net Capital Violations

Violations of Section 15(c) (3) of the Exchange Act and Rule 15c3-1 thereunder

74. Paragraphs 1 through 62 are realleged and incorporated herein by reference.

75. During the period from at least October 31, 2001 to the present, defendant Southern, aided and abetted by defendants Wooten and McKittrick, has made use of the mails and the means and instrumentalities of interstate commerce to effect transactions in and to induce the purchase and sale of securities when its net capital as computed in the manner required by Rule 15c3-1 [17 C.F.R. 240.15c3-1] was less than the required amount of \$100,000.

76. By reason of the foregoing, Southern aided and abetted by Wooten and McKittrick violated Section 15(c)(3) of the Exchange Act, 15 U.S.C. 78o(c)(3), and Rule 15c3-1, 17 C.F.R. 240.15c3-1 promulgated thereunder.

Count IV - Books and Records Violations
Violations Of Section 17(a) Of The Exchange Act And
Rules 17a-3, 17a-5 And 17a-11 Thereunder

77. Paragraphs 1 through 62 are realleged and incorporated herein by reference.

78. From at least October 31, 2001 through the present, Defendant Southern, while operating as a broker-dealer, has: (1) failed to create and maintain current blotters or other records of original entry reflecting receipts and disbursements of customer funds; (2) filed Part IIA of Form X-17A-5 with the NASD for the period ending December 31, 2001 containing inaccurate net

capital computations; and (3) failed to give notice that its net capital declined below the minimum amount required pursuant to Rule 15c3-1, and that its books and records are inaccurate.

43. By reason of the foregoing, Defendant Southern, aided and abetted by defendants Wooten and McKittrick, has violated and, unless enjoined, will continue to violate Section 17(a) of the Exchange Act, 15 U.S.C. 78q and Rules 17a-3, 17a-5 and 17a-11, 17 C.F.R. 240.17a-3, 240.17a-5, 240.17a-11, thereunder.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Commission respectfully prays for:

I.

Findings of Fact and Conclusions of Law pursuant to Rule 52 of the Federal Rules of Civil Procedure, finding that the Defendants named herein committed the violations alleged herein and that the relief defendant was unjustly enriched.

II.

A temporary restraining order, preliminary and permanent injunctions enjoining the Defendants, Southern, Wooten, and McKittrick, their officers, agents, servants, employees, and attorneys, and those persons in active concert or participation with him who receive actual notice of the order of injunction, by personal service or otherwise, and each of them, whether as principals or as aiders and abettors, from violating, directly or indirectly, Section 17(a) of the Securities Act, 15 U.S.C. 77q(a), Section 10(b) of the Exchange Act, 15 U.S.C. 78j(b), and Rule 10b-5 [17 C.F.R. 240.10b-5] promulgated thereunder, Section 15(c)(3) of the Exchange Act [15 U.S.C. 78o(c)(3)] and Rules 15c3-1 and 15c3-3 [17 C.F.R. 240.15c3-1 and 240.15c3-3], promulgated thereunder and Section 17(a) of the Exchange Act [15 U.S.C. 78q(a)(1)] and Rules 17a-3, 17a-5 and 17a-11 [17 C.F.R. 240.17a-3, 240.17a-5 and 240.17a-11], promulgated thereunder.

III.

A temporary restraining order, preliminary and permanent injunctions enjoining the Defendant Hunter, his officers, agents, servants, employees, and attorneys, and those persons in active concert or participation with him who receive actual notice of the order of injunction, by personal service or otherwise, and each of them, from violating, directly or indirectly, Section 17(a) of the Securities Act, 15 U.S.C. 77q(a), Section 10(b) of the Exchange

Act, 15 U.S.C. 78j(b), and Rule 10b-5 [17 C.F.R. 240.10b-5], promulgated thereunder.

IV.

An order requiring accountings by the Defendants and the Relief Defendant and ordering them to disgorge all ill-gotten gains or unjust enrichment, with prejudgment interest thereon, to effect the remedial purposes of the federal securities laws, and an order freezing the assets of the defendants and relief defendant and preserving documents, in order to preserve the status quo.

V.

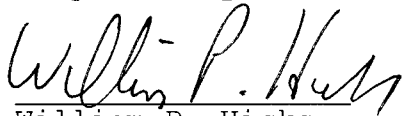
An order pursuant to Section 20(d) of the Securities Act [15 U.S.C. § 77t(d)] and Section 21(d)(3) of the Exchange Act [15 U.S.C. § 78u(d)(3)] imposing civil penalties against Defendants Southern, Wooten, McKittrick and Hunter.

VI.

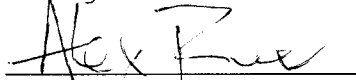
Such other and further relief as this Court may deem just, equitable, and appropriate in connection with the enforcement of the federal securities laws and for the protection of investors.

Dated: May 23, 2002

Respectfully submitted,



William P. Hicks
District Trial Counsel
Georgia Bar No. 351649



Alex Rue
Senior Trial Counsel
Georgia Bar No. 618950

Counsel for Plaintiff
Securities and Exchange Commission
3475 Lenox Road, N.E., Suite 1000
Atlanta, Georgia 30326-1232
Tel: (404) 842-7612 (Hicks)
Tel: (404) 842-7616 (Rue)
Fax: (404) 842-7666
E-mail: Hicksw@SEC.GOV;
Ruea@sec.gov

LOCAL COUNSEL:

J. STROM THURMOND, JR.
UNITED STATES ATTORNEY

Nancy Gordon Baker for

BY: *John H. Douglas*
JOHN H. DOUGLAS (#587)
Assistant U.S. Attorney
170 Meeting St., Suite 300
P.O. Box 978
Charleston, S.C. 29402
(843) 727-4381 (voice)
(843) 727-4443 (fax)
email: john.douglas@usdoj.gov