

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

**SECURITIES AND EXCHANGE
COMMISSION,**

Plaintiff,

v.

**MATTHEW A. KRIMM and
KRIMM FINANCIAL SERVICES, LLC,**

Defendants.

Civil Action No.

Demand For Jury Trial

COMPLAINT

Plaintiff Securities and Exchange Commission (the “Commission”) alleges as follows against Defendants Matthew A. Krimm (“Krimm”) and Krimm Financial Services, LLC (“KFS”):

SUMMARY

1. From at least May 2012 through January 2014, Krimm and his company, KFS, fraudulently induced at least 25 investors to purchase more than \$1.69 million in an unregistered securities offering in the form of promissory notes.

2. Krimm and KFS materially misrepresented to investors the nature of KFS’s business, its historic income, its revenue and profit projections, and Defendants’ use of the proceeds. Among other things, Defendants:

- a. falsely stated that Krimm and KFS owned and operated their own highly successful mortgage business;

- b. provided investors and prospective investors with false income statements for KFS;
- c. provided investors and prospective investors with false revenue and profit projections for KFS; and
- d. falsely claimed that investor funds would be used to recruit new loan officers, to open new offices, and/or to otherwise expand the business.

3. As part of the scheme, Krimm misappropriated investor funds for his personal expenses, including household expenses, car loans, and dining and shopping expenses. This enabled Krimm to enjoy a lifestyle beyond his means at the expense of his investors.

4. Defendants perpetuated the fraud by using Ponzi-like payments, using new investors' money to pay previous investors to give investors the false impression that KFS was performing profitably.

5. Krimm and KFS targeted small business owners and individuals who had obtained home mortgage loans through the licensed mortgage lenders that employed Krimm. Krimm and KFS promised prospective investors, many of whom were unsophisticated, that they would receive annual interest returns ranging from 7.99 to 44 percent and, in some cases, monthly interest returns ranging from 6 to 10 percent. Krimm and KFS also promised additional "profit sharing" or "bonus" payments to many investors.

6. By engaging in the conduct described in this Complaint, Defendants Krimm and KFS violated, and unless enjoined will continue to violate, Sections 5(a), 5(c), and 17(a) of the Securities Act of 1933 ("Securities Act") [15 U.S.C. §§ 77e(a), 77e(c), and 77q(a)] and Section 10(b) of the Securities Exchange Act of 1934 ("Exchange Act") [15 U.S.C. § 78j(b)] and Rule 10b-5 thereunder [17 C.F.R. § 240.10b-5].

JURISDICTION AND VENUE

7. The Commission brings this action pursuant to Sections 20(b) and 20(d) of the Securities Act [15 U.S.C. §§ 77t(b) and 77t(d)], and Section 21(d) of the Exchange Act [15 U.S.C. § 78u(d)], to enjoin such acts, transactions, practices, and courses of business, and to obtain disgorgement, prejudgment interest, civil penalties, and such other and further relief as the Court may deem just and appropriate.

8. This Court has jurisdiction over this action pursuant to Sections 20(b) and 22(a) of the Securities Act [15 U.S.C. §§ 77t(b) 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].

9. Venue in this District is proper 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]. Among other things, certain of the acts, transactions, practices, and courses of business constituting the violations alleged herein occurred within the District of Delaware. In addition, Defendant KFS is a Delaware limited liability company, and this District is the principal place of business for KFS.

10. In connection with the conduct alleged in this Complaint, Krimm and KFS, directly or indirectly, singly or in concert, made use of the means or instruments of transportation or communication in, or instrumentalities of, interstate commerce, or the mails, or the facilities of a national securities exchange.

DEFENDANTS

11. **Matthew A. Krimm**, age 35, resides in McHenry, Maryland. Krimm has been the President/CEO of Defendant KFS since its formation in January 2012. For the vast majority of the period at issue, Krimm resided in Delaware.

12. **Krimm Financial Services, LLC** is a Delaware limited liability company formed by Krimm in January 2012.

MORTGAGE BANKING TERMS USED IN THIS COMPLAINT

13. A “mortgage branch office” is an office of a mortgage lender that works with borrowers to give them loans and help them with their loan applications. Often, mortgage lenders reach borrowers in a particular geographic region through a mortgage branch office in that region.

14. A “branch manager” is an individual who is in charge of the mortgage branch office and is generally responsible for overseeing the functions of the office location.

15. A “loan officer” is a representative of a mortgage lender who finds and assists borrowers in taking out loans. Loan officers are often compensated through a commission on the loans that they place for the mortgage lender.

16. A “net branch” is a particular type of mortgage branch office, which allows the operators of the office to retain more independence over their mortgage business. The manager of a net branch office typically controls the office’s operating budget and is compensated based on the office’s total net profits—its total income from originating loans minus its total expenses.

FACTS

17. From March 2012 until April 2013, Krimm worked as a loan officer for a licensed mortgage lender based in Maryland (“Lender 1”). At that time, Krimm resided in Delaware and commuted to Lender 1’s Bel Air, Maryland mortgage branch office several times each week. From May 2013 through July 2013, Krimm worked for a different lender (“Lender 2”) and served as a branch manager for a Lender 2 mortgage branch office in Lewes, Delaware. When that office closed, Krimm returned to work at Lender 1, managing a Lender 1 mortgage branch

office in Rehoboth Beach, Delaware until March 2014, when his employment was terminated.

18. Krimm formed KFS in January 2012, and thereafter claimed that KFS operated a mortgage loan business.

19. At all relevant times, KFS acted by and through Krimm. Krimm was the sole owner of KFS.

THE OFFERING FRAUD

A. Solicitation of Investors

20. From at least May 2012 through January 2014, Krimm and KFS fraudulently induced more than 25 investors, located in multiple states, including Delaware, Maryland, and Pennsylvania, to purchase at least \$1.69 million in unregistered securities by falsely promising to use investor funds for KFS's purported mortgage business, and by making numerous other material misstatements and omissions.

21. Krimm marketed the securities in telephone calls, electronic mail, and face-to-face meetings with prospective investors, targeting customers of licensed mortgage lenders that had employed Krimm, including Lender 1. Many of the investors were financially unsophisticated with limited investment experience. Investors did not have access to the kind of information and level of detail that would be in a registration statement.

22. The securities that Krimm sold to investors took the form of "promissory notes," in which Krimm and/or KFS promised investors that they would receive interest payments as well as the return of their principal. Although the notes varied in form, they were substantially similar, and all of the investors were told that investor funds would be used for the purpose of expanding KFS's purported business.

23. Krimm solicited investors to purchase the securities using several different sets of

written offering documents that he authored. The offering documents referred to the promissory notes as an “investment opportunity,” and described KFS’s purported mortgage business and the proposed terms of the offering.

24. Krimm and KFS stated in the offering documents that investors would receive interest, and, in some cases, also “profit sharing” or “additional bonus” payments. These payments varied based upon the length or amount of the investment.

25. For example, in one set of offering documents, Krimm and KFS specified the following terms:

- \$75,000 Capital Investment
- 7.99% Interest [per annum]-Paid Monthly (\$500.00)
- 10% Profit Sharing – Paid Quarterly with a \$1,500 per month guarantee.

26. In another set of offering materials, Krimm and KFS offered 12-month investments for which they promised to pay annual interest of 14.99%, to be paid monthly, plus an “additional monthly bonus” ranging from \$2,500 to \$4,000 per month, depending upon the amount of the investment.

27. In a third set of offering materials, for investments with a 60-day term, Krimm and KFS offered to pay 10 percent interest per month.

28. Investors made payments of money to Krimm and/or KFS and, in exchange, received a promissory note signed by Krimm on behalf of himself, and/or KFS. Regardless of whether the promissory notes were issued solely in Krimm’s name or in the name of KFS, Krimm told investors that investor funds would be used to finance KFS’s purported mortgage business.

29. Some investors wired their purchase payments directly to bank accounts controlled by Krimm or KFS. Others sent their payments to Krimm through the mail or by hand-

delivery.

30. Krimm moved investor funds through a series of bank accounts that made tracing and detecting his activities difficult, and he comingled investor funds with the assets in his own personal accounts.

B. Material Misrepresentations and Omissions

31. Krimm and KFS made material misrepresentations and omissions to investors relating to KFS's business operations, income, revenue, and profitability, as well as the use of investor funds and the source of payments to investors.

i. Misrepresentations and Omissions Regarding KFS's Business Operations

32. In written offering documents distributed to prospective investors to induce them to invest, Defendants falsely stated that:

- a. KFS was licensed to lend in multiple states, ranging in number from nine to 42 states;
- b. KFS owned and/or operated mortgage net branch offices in multiple states, including Delaware and Pennsylvania, and, in some offering documents, also claimed that KFS had offices in Texas, Maryland and/or New Jersey; and
- c. KFS's net branch offices generated at least \$10 million in mortgage loans per month, with some offering documents claiming a monthly mortgage loan production of at least \$20 million.

33. Contrary to the representations in the offering materials, neither Krimm nor KFS owned, controlled, or operated a net branch of a mortgage lender.

34. In reality, KFS was not a licensed mortgage lender, and KFS did not own or operate any mortgage branch offices, let alone any net branch offices.

35. Neither Krimm nor KFS shared in the net profits of the mortgage branch offices where Krimm worked.

36. Neither KFS, nor Krimm, nor the mortgage branch office that Krimm managed for Lender 1 had monthly mortgage loan production of \$10 million or more.

37. To the contrary, during the time that Krimm was a branch manager for Lender 1, the average monthly loan production for the entire mortgage branch office that Krimm managed was less than \$500,000.

ii. Misrepresentations and Omissions Regarding KFS's Income

38. Krimm and KFS also provided prospective investors with false and contradictory income statements.

39. Krimm provided one investor with a KFS income statement for July 2012 falsely claiming that the net branch operated by KFS generated gross revenue of \$103,909.99 and net income of \$12,886.27.

40. In another July 2012 income statement that Krimm provided to a different investor, Krimm falsely claimed that the net branch operated by KFS generated gross revenue of \$120,069.08 and net income of \$19,973.14.

41. In fact, KFS did not generate any revenue or income.

42. In July 2012, Krimm worked as a mortgage loan officer at Lender 1. At that time, Krimm was not acting as a branch manager, let alone the manager of a net branch.

43. During the month of July 2012, Krimm personally originated and closed only one mortgage loan, and the commission he received for that mortgage loan was less than \$6,000.

iii. Misrepresentations and Omissions Regarding KFS' Revenue and Profit Projections

44. Krimm and KFS provided prospective investors with false and unreasonable

revenue and profit projections.

45. For example, Krimm induced an investor to purchase promissory notes in May 2012 by providing the prospective investor with a set of projections dated April 30, 2012, in which Krimm falsely claimed that average monthly production for one KFS net branch was \$12,775,000 and projected profits were \$65,199.63 per month.

46. Krimm provided another investor a document that Krimm prepared projecting that a new KFS office planned in Pennsylvania would generate an average monthly mortgage loan production of \$8,470,000 and profits for KFS of \$51,055.27 per month.

47. Both of these projections were false. KFS was not a licensed mortgage lender and conducted no mortgage lending business, and neither Krimm nor KFS shared in the profits of the licensed mortgage lenders that employed Krimm. Krimm had no basis for the projections provided to prospective investors.

48. Furthermore, the projections were baseless and unreasonable given the prior history of mortgage loan production for Lender 1.

49. Between March 2012 and April 2013—while Krimm was employed as a loan officer for Lender 1—Lender 1’s average monthly mortgage production, across all Lender 1 branches, was less than the amounts projected by Krimm for the one purported KFS branch.

C. Misuse of Investor Funds

50. Krimm claimed in written offering documents that investor funds would be used for “expansion” of KFS’s business with new office locations, to “recruit top level industry veterans” for KFS’s offices, and to expand KFS’s “reverse mortgage lending” business.

51. Krimm also made oral representations to investors and prospective investors that investor funds would be used to open new KFS offices, to pay recruiting bonuses for new

mortgage loan officers, and to expand KFS's business with respect to reverse mortgage loans.

52. Contrary to what investors were told in writing and orally, Krimm used over 75% of investor funds in ways not disclosed to investors.

53. For instance, without disclosing it to investors, Krimm misappropriated over \$500,000 of investor funds to benefit himself and his family.

54. Krimm used investor funds to pay his personal expenses, including, among other things, the rent on his home, personal automobile loan payments, rental car expenses, childcare expenses, household expenses, and frequent purchases at restaurants, and grocery, convenience and department stores.

55. Krimm spent over \$800,000 to make purported interest, profit sharing, additional bonus payments, and principal payments to prior investors. These payments were made to further the fraud by maintaining the appearance that the business was performing as represented.

56. Krimm did not disclose to investors that he planned to, or did, in fact, use investor money for Krimm's personal benefit, or that he used money from new investors to repay earlier investors.

KRIMM AND KFS VIOLATED THE FEDERAL SECURITIES LAWS

57. During the relevant period, Krimm owned, operated, and controlled KFS.

58. The promissory notes offered and sold by Krimm and KFS to investors are securities within the meaning of both the Securities Act and the Exchange Act.

59. Krimm and KFS offered to sell and sold the promissory notes when no registration statement was filed with the Commission or in effect as to the promissory notes.

60. The promissory notes were not exempt from the registration requirements of the Securities Act.

61. In connection with these sales or offers to sell, Krimm and KFS made use of means or instruments of interstate transportation or communication in interstate commerce or of the mails, including using the internet, interstate phone calls, and the United States mail.

62. During the period from May 2012 through January 2014, Krimm and KFS continuously sold the promissory notes, and there was no period of six months or more between the promissory sales.

63. The promissory notes were offered and sold to investors in multiple states, and the offering exceeded \$1 million.

64. The promissory notes were sold to more than 25 unaccredited investors.

65. Krimm and KFS did not distribute audited financial statements to investors prior to the sale of promissory notes.

66. All of the misrepresentations and omissions set forth herein, individually and in the aggregate, are material, and were made in connection with and in the offer, purchase, or sale of securities. There is a substantial likelihood that a reasonable investor would consider the misrepresented facts and omitted information—including, among other items, misrepresentations and omissions about the nature of KFS's business and business operations, KFS's income, the profitability and projected revenue of KFS, and the use of investor funds—important in deciding whether or not to purchase the promissory notes, and that the accurate facts would alter the “total mix” of information available to investors.

67. In connection with the conduct described herein, Defendants acted knowingly, recklessly, or negligently. Among other things, Defendants knew, were reckless, or should have known that they were making material misrepresentations and omitting to state material facts necessary to make certain statements not misleading under the circumstances in connection with

the sale or offer of the promissory notes.

68. Krimm and KFS were the makers of the false and misleading statements made in writing and orally regarding KFS. Krimm signed all of the promissory notes sold to investors, and he prepared the offering documents, income statements, and revenue and profit projections provided to investors on behalf of KFS.

69. Through their material misrepresentations and omissions, Defendants obtained money or property from investors. Defendants obtained over \$1.69 million from investors, of which Krimm misappropriated over \$500,000 for himself.

70. Through this scheme, Defendants engaged in acts, transactions or courses of business that operated as a fraud or deceit upon offerees, purchasers and prospective purchasers of the promissory note investments.

CLAIMS FOR RELIEF

FIRST CLAIM

Violations of Sections 5(a) and 5(c) of the Securities Act

71. The Commission realleges and incorporates by reference each and every allegation in paragraphs 1 through 70, inclusive, as if they were fully set forth herein.

72. As a result of the conduct alleged herein, Defendants Krimm and KFS directly or indirectly, made use of the means or instruments of transportation or communication in interstate commerce or of the mails, to offer to sell or to sell securities, or to carry or cause such securities to be carried through the mails or in interstate commerce for the purpose of sale or delivery after sale.

73. No valid registration statement has been filed with the Commission or has been in effect with respect to any offering or sale alleged herein.

74. There was no exemption for the promissory notes from the registration

requirements of the Securities Act.

75. By engaging in the foregoing conduct, Defendants Krimm and KFS violated, and unless restrained and enjoined will continue to violate, Section 5(a) and 5(c) of the Securities Act [15 U.S.C. §§ 77e(a) and 77e(c)].

SECOND CLAIM
Violations of Section 17(a) of the Securities Act

76. The Commission realleges and incorporates by reference each and every allegation in paragraphs 1 through 70, inclusive, as if they were fully set forth herein.

77. By engaging in the conduct described above, Defendants Krimm and KFS, in the offer or sale of securities, directly or indirectly, by the use of any means or instruments of transportation or communication in interstate commerce or by use of the mails:

- a. knowingly or recklessly employed devices, schemes, or artifices to defraud;
- b. knowingly, recklessly, or negligently obtained money or property by means of an untrue statement of a material fact or an omission of a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; or
- c. knowingly, recklessly, or negligently engaged in transactions, practices, or courses of business which operated or would operate as a fraud or deceit upon the purchaser.

78. By engaging in the foregoing conduct, Defendants Krimm and KFS violated, and unless enjoined will continue to violate, Section 17(a) of the Securities Act [15 U.S.C. § 77q(a)].

THIRD CLAIM
Violations of Section 10(b) of the Exchange Act and Rule 10b-5 Thereunder

79. The Commission realleges and incorporates by reference each and every

allegation in paragraphs 1 through 70, inclusive, as if they were fully set forth herein.

80. By engaging in the conduct described above, Defendants Krimm and KFS, knowingly or recklessly, in connection with the purchase or sale of securities, directly or indirectly, by the use of means or instrumentalities of interstate commerce, or the mails, or the facilities of a national securities exchange:

- a. employed devices, schemes, or artifices to defraud;
- b. made untrue statements of material fact or 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; or
- c. engaged in acts, practices, or courses of business which operated or would operate as a fraud or deceit upon any person.

81. By engaging in the foregoing conduct, Defendants Krimm and KFS 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].

PRAYER FOR RELIEF

WHEREFORE, the Commission respectfully requests that the Court enter a final judgment:

I.

Permanently restraining and enjoining Defendants Krimm and KFS from violating Sections 5(a), 5(c), and 17(a) of the Securities Act [15 U.S.C. §§ 77e(a), 77e(c), and 77q(a)] and 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];

II.

Ordering Defendants Krimm and KFS to disgorge any and all ill-gotten gains derived from the activities set forth in this Complaint, together with prejudgment interest thereon;

III.

Ordering Defendants Krimm and KFS to pay civil penalties under Section 20(d) of the Securities Act [15 U.S.C. § 77t(d)] and Section 21(d) of the Exchange Act [15 U.S.C. § 78u(d)]; and

IV.

Granting such other and further relief as this Court may deem just and appropriate.

Respectfully submitted,

Date: April 25, 2017

/s/ Julia C. Green
Julia C. Green
Christopher R. Kelly
Kingdon Kase
Patricia A. Kuzma Trujillo

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