

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
WEST PALM BEACH DIVISION

CASE NO.

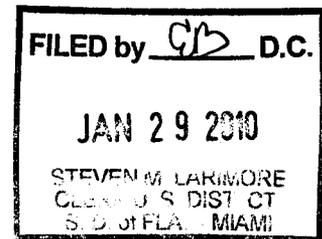
SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

WINNING KIDS, INC.,
CHRISTIAN HAINSWORTH,
ROBERT COMISKEY,
EDWARD TAMIMI, and
VICTOR SELENOW,

Defendants.



COMPLAINT FOR INJUNCTIVE AND OTHER RELIEF

Plaintiff Securities and Exchange Commission alleges:

I. INTRODUCTION

1. The Commission brings this action against Winning Kids, Inc., its founder, President and CEO Christian Hainsworth, and three of its sales agents for defrauding investors through the sale of securities in violation of the registration and antifraud provisions of the federal securities laws.

2. From at least March 2007 and through September 2008 ("the relevant period"), Hainsworth and Winning Kids raised approximately \$1.9 million from investors nationwide through a series of private securities offerings they marketed to the public primarily through radio advertisements. The purpose was to raise money to market the company's sole product, a series of children's books Hainsworth had developed.

3. The offering materials, which Hainsworth prepared, among other things baselessly projected 300 percent annual returns for investors at a time when the company was not even actively attempting to commercially sell and distribute the books.

4. Winning Kids, Hainsworth, and three telemarketers he hired, Robert Comiskey, Edward Tamimi, and Victor Selenow, also failed to disclose that the sales agents were receiving commissions of up to 20 percent for the sale of Winning Kids' shares. Hainsworth further failed to disclose he was using offering proceeds for personal expenses.

5. Through their conduct, the Defendants violated 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) and Rule 10b-5 of the Securities Exchange Act of 1934 ("Exchange Act"), 15 U.S.C. § 78j(b) and 17 C.F.R. § 240.10b-5. Comiskey, Tamimi, and Selenow further violated Section 15(a) of the Exchange Act, 15 U.S.C. § 78o(a), and Hainsworth aided and abetted Comiskey, Tamimi, and Selenow's violations of Section 15(a) of the Exchange Act. Unless restrained and enjoined, the Defendants are reasonably likely to engage in future violations of the securities laws.

II. DEFENDANTS

6. Winning Kids is a Florida corporation formed in June 2004, with its principal office in Palm Beach Gardens, Florida. Winning Kids has never been registered with the Commission in any capacity and has not registered any offering of securities under the Securities Act or a class of securities under the Exchange Act. In September 2009, South Dakota securities regulators brought an action against Winning Kids for selling unregistered securities to South Dakota residents. South Dakota entered a cease-and-desist order against Winning Kids prohibiting it from offering or selling securities in South Dakota.

7. Hainsworth, 47, resides in Palm Beach Gardens, Florida. Hainsworth founded Winning Kids, served as its CEO, and directed its offer and sale of securities. At various times Hainsworth held Series 3, 4, 24, and 63 securities licenses. In 1995, the Kansas Securities commission entered a consent order against Hainsworth to cease offering to sell unregistered securities in that state. Hainsworth was also a subject of the South Dakota cease-and-desist order earlier this year.

8. Comiskey, 62, resides in Palm Beach Gardens, Florida. Comiskey was a Winning Kids sales representative from April 2007 through September 2008, and received \$86,975 in sales commissions. He held a Series 3 license in 1987.

9. Tamimi, 33, resides in Palm Beach Gardens, Florida. Tamimi was a Winning Kids sales representative from May 2007 through September 2008, and received \$194,250 in sales commissions. Tamimi at one time held a Series 7 license. In addition, from 2004 through 2005, Tamimi was registered as an associated person with the National Futures Association (“NFA”). In 2006, the NFA fined Tamimi \$5,000 for making misleading sales solicitations and using high-pressure sales tactics, barred him from associating with or acting as a principal of any NFA member for six months, and placed restrictions on his activities for another six months.

10. Selenow, 48, resides in Royal Palm Beach, Florida. Selenow was Winning Kids’ sales manager from April through December 2007, and received \$41,500 in commissions. Selenow has held a Series 3 license. In 2002, the Commission obtained a permanent injunction against Selenow based on his violations of Sections 5(a), 5(c) and 17(a) of the Securities Act and Section 10(b) of the Exchange Act and Exchange Act Rule 10b-5, and an order requiring him to disgorge \$30,000. SEC v. The Gaming Factory, Inc., Case No. 01-80331 (S.D. Fla.). Selenow was licensed as an associated person with the NFA from 1988 through 1997. In 1995, the NFA fined Selenow

\$50,000 for making misleading sales solicitations and using high-pressure sales tactics, barred him from associating with or acting as a principal of any NFA member for 5 years, and placed restrictions on his activities for another two years.

III. JURISDICTION AND VENUE

11. The 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.

12. The Court has personal jurisdiction over the Defendants and venue is proper in the Southern District of Florida because most of the Defendants' acts and transactions constituting violations of the Securities Act and the Exchange Act occurred in the Southern District of Florida in that the Defendants solicited investors and sold Winning Kids' securities from the company's offices in Palm Beach Gardens. In addition, as described above, Hainsworth, Comiskey, Tamimi, and Selenow reside in Palm Beach County.

13. Winning Kids, Hainsworth, Comiskey, Tamimi, and Selenow, directly and indirectly, have made use of the means and instrumentalities of interstate commerce, the means and instruments of transportation and communication in interstate commerce, and the mails, in connection with the acts, practices, and courses of business set forth in this Complaint.

IV. THE DEFENDANTS' FRAUDULENT OFFERING

A. The Sales Process

14. From at least March 2007 through September 2008, Hainsworth and Winning Kids raised \$1.9 million from 190 investors nationwide through the offer and sale of Winning Kids' unregistered securities. The purpose was to raise funds to attempt to market the children's books.

15. Winning Kids marketed its securities offerings primarily through a radio advertisement Hainsworth placed on a station covering New York, New Jersey, and Connecticut. The ad provided a toll-free number for interested investors to call. Hainsworth hired Comiskey, Tamimi, Selenow, and other sales agents to speak with potential investors. Winning Kids ran the radio advertisements from April through December 2007.

16. Hainsworth hired a telephone answering service to handle the radio ad calls. The answering service delivered the messages to Hainsworth via e-mail. Hainsworth distributed the messages to the sales agents. Hainsworth also purchased at least one lead list for sales agents. The sales agents called potential investors from this lead list.

17. The sales agents told interested investors that Winning Kids was a “dividend yielding investment” to be paid out on a quarterly basis. The sales agents also told potential investors these dividends were based on Winning Kids’s projected revenue.

18. If investors were interested after the initial telephone call, sales agents or Hainsworth had Winning Kids mail them a package of information, consisting of one of two private placement memoranda (“PPMs”), a subscription agreement, a projected annual income and investor returns sheet, and a welcome package describing the Winning Kids opportunity. Hainsworth prepared and approved all of these offering materials.

19. Interested investors mailed their signed subscription agreement along with a check for the amount of shares they purchased to Winning Kids’ post office box in Palm Beach Gardens, Florida. Hainsworth deposited these checks in Winning Kids’ bank account. He then prepared and sent investors a welcome letter, and a stock certificate.

20. Winning Kids did not require investors to be accredited or earn a minimum amount of income. As long as investors felt they were able and willing to bear the risk of loss, they could invest in the company.

21. The sales agents told investors they were vice presidents of Winning Kids, and Hainsworth provided them with business cards stating that. However, in reality, they were independent contractors that received commissions based on the sale of Winning Kids securities.

22. Winning Kids paid the sales agents cash commissions of 15 to 20 percent of each sale they made. In addition, Selenow received for a few months five percent of the sales proceeds the other sales agents raised. Although Hainsworth characterized the commissions as 10 percent for sales and 10 percent for “servicing” the clients, servicing the clients primarily meant providing them positive news about Winning Kids and soliciting new investments from them. In addition, Hainsworth paid the entire 20 percent at the time the sales agent made each sale. These commissions were the agents’ sole compensation.

23. Comiskey, Tamimi, and Selenow were neither registered as broker-dealers nor associated with a registered broker-dealer while facilitating and participating in these securities sales.

24. In addition, no registration statement has been filed or has been in effect with the Commission in connection with the securities offered and sold by Winning Kids.

B. Misrepresentations and Omissions

25. In connection with Winning Kids’ unregistered offering of investments during the relevant period, Hainsworth, Winning Kids and the sales agents made numerous material misrepresentations and omissions to investors.

1. The Status of Winning Kids' Business Operations

26. The Defendants made false and misleading claims about Winning Kids' status. For example, the letter in the welcome package said the company was "already established, expanding nationally, and starting an acceleration phase of extraordinary growth."

27. In reality, Winning Kids generated almost no revenue from the sale of its books or any other product from 2004 through 2008. In addition, Winning Kids spent most of 2007 redesigning the books rather than trying to actively sell them.

28. Furthermore, Winning Kids did not actively try to sell its books for most of 2008. Instead, Hainsworth attended trade shows throughout the United States trying to gain acceptance of the company's redesigned product among industry professionals.

29. Winning Kids ran direct response television advertisements for the revised books in December 2007, but the new books generated very little revenue and Winning Kids did not air the advertisements again.

30. Hainsworth and his sales agents did not disclose any of these facts when pitching the company to investors. The most anyone said was not to expect immediate profits. But the sales agents and Hainsworth never told investors the company was not selling its books and had little immediate prospect of doing so. The sales agents were aware of Winning Kids's status and had reviewed the company's offering materials.

2. Baseless Profit and Return Projections

31. Winning Kids' status as a company producing little or no revenue and without immediate prospects of selling large numbers of books rendered baseless profit and investor return projections the Defendants made.

32. For example, Winning Kids' projected annual income sheet in its offering materials stated the company could earn an annual profit of \$15 million without stating when, and without disclosing it was earning next to nothing at the time. Hainsworth also told his sales agents Winning Kids could earn \$5 million in sales during 2008, which the sales agents repeated to prospective investors.

33. The private placement memoranda and other materials also told investors that for each \$10,000 they invested, they could expect to get back \$30,000 a year – in other words, a 300 percent annual return. Winning Kids based these figures on projected sales of 115,000 books annually.

34. Winning Kids' lack of ongoing sales and revenue gave no reasonable basis for these projections. Throughout most of 2007, Winning Kids was still redesigning the books, and, in fact, did not have a redesigned product for sale until November 2007. Furthermore, Hainsworth concentrated his efforts in 2008 trying to gain acceptance of the company's redesigned product among industry professionals.

35. Additionally, Winning Kids based its projections on sales revenues generated by well-known companies that sold products through direct response television advertising. The company's offering materials did not address the significant differences between its start-up operations and the identified well-known companies.

3. Failure to Disclose Selling Commissions

36. Hainsworth, Winning Kids, and the sales agents failed to disclose that the company paid the agents commissions of up to 20 percent on each sale of its securities. Winning Kids' 2007 PPM states that the company might pay sales commissions of up to 10 percent to licensed broker-dealers. The 2008 PPM made a similar statement.

37. However, both PPMs stated that officers and directors of the company who were not registered broker-dealers would actually conduct the securities offerings.

38. In reality, Winning Kids and Hainsworth paid sales commissions of up to 20 percent to the sales agents, who were neither officers of the company nor licensed or registered broker-dealers. Neither Hainsworth nor his sales agents disclosed the size of the commissions to investors. Each of the sales agents had read the PPMs they sent to investors, and knew they disclosed commissions of 10 percent at most, and then only to licensed broker-dealers.

4. Misrepresentations Concerning Anticipated Use of Proceeds

39. Hainsworth, Winning Kids, and the sales agents also misrepresented how Winning Kids would use investor funds. The PPMs represented that 90 percent of the offering proceeds would be used for product development, manufacturing, advertising, marketing, and working capital. To the contrary Hainsworth and the sales agents received at least 40 percent of the \$1.9 million Winning Kids raised.

40. Winning Kids paid Comiskey, Tamimi, and Selenow approximately \$322,000 of the offering proceeds as selling commissions. In addition, Hainsworth received \$541,000 over the course of the offering, through checks he issued to himself and his wife and ATM withdrawals.

V. CLAIMS FOR RELIEF

COUNT I

**SALE OF UNREGISTERED SECURITIES IN
VIOLATION OF SECTIONS 5(a) AND 5(c) OF THE SECURITIES ACT**

41. The Commission repeats and realleges Paragraphs 1 through 40 of this Complaint.

42. From at least March 2007 and through September 2008, the Defendants directly and indirectly: a) made use of the means or instruments of transportation or communication in interstate commerce or of the mails to sell securities, through the use or medium of a prospectus or otherwise; (b) carried securities or caused such securities to be carried through the mails or in interstate commerce, by any means or instruments of transportation, for the purpose of sale or delivery after sale; or (c) made use of the means or instruments of transportation or communication in interstate commerce or of the mails to offer to sell or offer to buy through the use or medium of any prospectus or otherwise.

43. No valid registration statement was filed or in effect with the Commission pursuant to the Securities Act, nor did any exemption from the registration requirement exist with respect to the securities and transactions described in this Complaint.

44. By reason of the foregoing, the Defendants directly and indirectly violated, and unless enjoined, are reasonably likely to continue to violate, Sections 5(a) and 5(c) of the Securities Act, 15 U.S.C. §§ 77e(a) and 77e(c).

COUNT II

**FRAUD IN VIOLATION OF
SECTION 17(a)(1) OF THE SECURITIES ACT**

45. The Commission repeats and realleges Paragraphs 1 through 40 of this Complaint.

46. From at least March 2007 and through September 2008, the Defendants directly and indirectly, by use of the means or instruments of transportation or communication in interstate commerce and by use of the mails, in the offer or sale of securities, as described in this Complaint, knowingly, willfully or recklessly employed devices, schemes or artifices to defraud.

47. By reason of the foregoing, the Defendants directly and indirectly violated, and, unless enjoined, are reasonably likely to continue to violate, Section 17(a)(1) of the Securities Act, 15 U.S.C. § 77q(a)(1).

COUNT III

FRAUD IN VIOLATION OF SECTIONS 17(A)(2) AND 17(A)(3) OF THE SECURITIES ACT

48. The Commission repeats and realleges Paragraphs 1 through 40 of this Complaint.

49. From at least March 2007 and through September 2008, the Defendants directly and indirectly, by use of the means or instruments of transportation or communication in interstate commerce and by the use of the mails, in the offer or sale of securities: (a) obtained money or property by means of untrue statements of material facts and omissions to state material facts necessary to make the statements made, in the light of the circumstances under which they were made, not misleading; or (b) engaged in transactions, practices and courses of business which operated and will operate as a fraud or deceit upon purchasers and prospective purchasers of such securities.

50. By reason of the foregoing, the Defendants directly and indirectly violated, and, unless enjoined, are reasonably likely to 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 IV

FRAUD IN VIOLATION OF SECTION 10(b) OF THE EXCHANGE ACT AND RULE 10b-5 THEREUNDER

51. The Commission repeats and realleges Paragraphs 1 through 40 of this Complaint.

52. From at least March 2007 and through September 2008, the Defendants directly and indirectly, by use of the means and instrumentality of interstate commerce, and of the mails in connection with the purchase or sale of the securities, as described in this Complaint, knowingly, willfully or recklessly; 1) employed devices, schemes or artifices to defraud; 2) made untrue statements of material facts and omitted to state material facts necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading; or 3) engaged in acts, practices and courses of business which operated as a fraud upon the purchasers of such securities and will operate as a fraud upon the purchasers of such securities.

53. By reasons of the foregoing, the Defendants directly or indirectly violated, and, unless enjoined, are reasonably likely to continue to violate, Section 10(b) of the Exchange Act, 15 U.S.C. § 78j(b), and Rule 10b-5, 17 C.F.R. § 240.10b-5.

COUNT V

VIOLATIONS OF SECTION 15(a)(1) OF THE EXCHANGE ACT

54. The Commission repeats and realleges Paragraphs 1 through 40 of this Complaint.

55. From at least March 2007 and through September 2008, Comiskey, Tamimi, and Selenow while acting as or associated with a broker or dealer, effected transactions in, or induced or attempted to induce the purchase or sale of, securities while they were not registered with the Commission as a broker or dealer or when they were not associated with an entity registered with the Commission as a broker-dealer.

56. By reasons of the foregoing, Comiskey, Tamimi, and Selenow directly or indirectly violated, and, unless enjoined, are reasonably likely to continue to violate, Section 15(a) of the Exchange Act, 15 U.S.C. § 78o(a).

COUNT VI

**AIDING AND ABETTING VIOLATIONS OF
SECTION 15(a)(1) OF THE EXCHANGE ACT**

57. The Commission repeats and realleges Paragraphs 1 through 40 of this Complaint.

58. From at least March 2007 and through September 2008, Comiskey, Tamimi, and Selenow while acting as or associated with a broker or dealer, effected transactions in, or induced or attempted to induce the purchase or sale of, securities while they were not registered with the Commission as a broker or dealer or when they were not associated with an entity registered with the Commission as a broker-dealer.

59. Hainsworth, knowingly provided, or was severely reckless in providing, substantial assistance to Comiskey, Tamimi, and Selenow in connection with their violations of Section 15(a) of the Exchange Act.

60. By reason of the foregoing, Hainsworth aided and abetted Comiskey, Tamimi, and Selenow's violations of Section 15(a) of the Exchange Act, 15 U.S.C. § 78o(a).

RELIEF REQUESTED

WHEREFORE, the Commission respectfully requests that the Court:

I.

Declaratory Relief

Declare, determine and find that the Defendants have committed the violations of the federal securities laws alleged herein.

II.

Permanent Injunction

Issue a Permanent Injunction restraining and enjoining the Defendants, their officers, agents, servants, employees, attorneys, and all persons in active concert or participation with them, and each of them, from violating Sections 5(a), 5(c), and 17(a) of the Securities Act, and Section 10(b) and Rule 10b-5 of the Exchange Act; and enjoin Hainsworth, Comiskey, Tamimi, and Selenow and their officers, agents, servants, employees, attorneys and all persons in active concert or participation with them, and each of them, from violating Section 15(a)(1) of the Exchange Act.

III.

Disgorgement

Issue an Order directing the Defendants to disgorge all ill-gotten gains, including prejudgment interest, resulting from the acts or courses of conduct alleged in this Complaint.

IV.

Penalties

Issue an Order directing each of the Defendants to pay a civil money penalty pursuant to 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).

V.

Further Relief

Grant such other and further relief as may be necessary and appropriate.

VI.

Retention of Jurisdiction

Further, the Commission respectfully requests that the Court retain jurisdiction over this action in order to implement and carry out the terms of all orders and decrees that may be entered or to entertain any suitable application of motion by the Commission for additional relief within the jurisdiction of this Court.

Respectfully submitted,

January 28, 2010

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