

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. _____

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

CFO-5, LLC,
TRINITY INTERNATIONAL ENTERPRISES, INC.,
STANLEY W. ANDERSON,
EDWIN A. SMITH,
CHARLES L. KENNEDY,
MICHAEL D. NORTON, individually and d/b/a Global Asset Services, and
NICHOLAS R. FAIR,

Defendants.

COMPLAINT

Plaintiff, the Securities and Exchange Commission (the “Commission”), alleges that:

I. SUMMARY

- 1) This matter centers on a prime bank fraud scheme beginning in about April 2005 and continuing through at least July 2007 in which the defendants engaged in the fraudulent and unregistered offer and sale of securities, in violation of the anti-fraud, registration, and broker-dealer provisions of the federal securities laws.
- 2) “Prime bank instrument fraud” and “prime bank fraud” are general terms given to fraud schemes that go by many different names. While the details of the schemes vary, most involve the false premise that major international banks secretly buy and sell high yield

bank instruments off the books to private traders who are allowed to buy the instruments at a discount and resell them for extremely high, unrealistic rates of return.

- 3) Defendants Stanley W. Anderson (“Anderson”) and Edwin A. Smith (“Smith”) developed a prime bank scheme and operated it through defendants CFO-5, LLC (“CFO-5”) and Trinity International Enterprises, Inc. (“Trinity”), entities under Anderson and Smith’s control. Defendants Charles L. Kennedy (“Kennedy”), Michael D. Norton, individually and d/b/a Global Asset Services (“Norton”), and Nicholas R. Fair (“Fair”), joined the scheme and played significant roles in selling the prime bank securities and soliciting and lulling investors on behalf of Anderson and Smith.
- 4) The defendants represented that investors’ funds would be used to trade in European medium term notes (“MTNs”), described as investment grade rated securities issued by reputable European banks and financial institutions, and that this trading activity would pay nearly immediate returns ranging from 200 to 1000 percent (hereafter the “MTN program”). While the timing and amount of projected returns varied, the material terms of the investment contract remained the same.
- 5) All of the essential representations made to investors and potential investors were false and, in fact, the MTN program defendants described does not exist. Many of the documents provided to investors contained indicia of prime bank instrument fraud, including using nonsensical language to describe the MTNs and extremely unrealistic rates of return.
- 6) The defendants raised over \$5.1 million from at least 100 investors nationwide. Investors’ funds were not used to trade in financial instruments, but were instead misappropriated by

the defendants and dispensed for unauthorized uses. Investors, with the exception of those who received Ponzi scheme-like payments, that is, money taken from one investor to compensate another investor, lost their total investments.

- 7) The scheme occurred in three continuous phases. The funds raised from the scheme generally were commingled and deposited into a single bank account controlled by Anderson and Smith. At least some of the offers and sales were made through use of the means or instrumentalities of interstate commerce, of the mails, and/or of the means and instruments of transportation or communication in interstate commerce.
- 8) In the course of marketing the MTN program, defendants Anderson, Smith, Kennedy, Norton, and Fair acted as broker-dealers even though they were not registered with the Commission as broker-dealers or associated persons of a registered broker-dealer. In addition, no registration statement was in effect or had been filed with the Commission as to the securities.
- 9) Through the activities alleged in the Complaint, the defendants, directly or indirectly, have engaged, and unless restrained and enjoined by this Court, will continue to engage in transactions, acts, practices, and courses of business that 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]. Anderson, Smith, Kennedy, Norton, and Fair, directly or indirectly, have engaged, and unless restrained and enjoined by this Court, will continue to engage in, transactions, acts, practices, and courses of business that violate Section 15(a) of the Exchange Act [15 U.S.C. § 78o(a)].

- 10) As detailed below, the Commission seeks an order: restraining and enjoining the defendants from violating relevant sections of the federal securities laws and regulations; requiring each defendant to provide a sworn accounting of proceeds obtained from the fraudulent offering; requiring the defendants to disgorge ill-gotten gains and pay civil penalties; and granting such other relief as is necessary and appropriate.

II. JURISDICTION AND VENUE

- 11) The Commission brings this action pursuant to the authority conferred upon it by Section 20(b) of the Securities Act [15 U.S.C. § 77t(b)] and Sections 21(d) and (e) of the Exchange Act [15 U.S.C. §§ 78u(d) and (e)].
- 12) The Court has jurisdiction over this action pursuant to Section 22(a) of the Securities Act [15 U.S.C. § 77v(a)] and Sections 21(e) and 27 of the Exchange Act [15 U.S.C. §§ 78u(e) and 78aa]. 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].
- 13) In connection with the transactions, acts, practices, and courses of business described in this Complaint, the defendants, directly and indirectly, have made use of the means or instrumentalities of interstate commerce, of the mails, and/or of the means and instruments of transportation or communication in interstate commerce.
- 14) Certain of the transactions, acts, practices, and courses of business constituting the violations of the federal securities laws occurred within this district. Moreover, CFO-5 is a Colorado limited liability corporation and Trinity is a Colorado corporation. At the time of the acts alleged in the complaint, Anderson, Smith, Norton and Fair resided in this district.

III. DEFENDANTS

- 15) **CFO-5, LLC**, is a Colorado limited liability company registered by Smith on January 31, 2006, with its principal place of business in Denver. At the time of the events set out in the complaint, CFO-5 had no business operations apart from soliciting sales of securities to investors. CFO-5 has not filed a Securities Act registration statement or made a Regulation D filing with the Commission or any state claiming an exemption from registration requirements of the Securities Act for its offering of securities, nor has it registered a class of securities under the Exchange Act.
- 16) **Trinity International Enterprises, Inc.**, is a Colorado corporation incorporated by Smith on April 20, 2005, with its principal place of business in Denver. At the time of the events set out in the complaint, Trinity had no business operations apart from soliciting sales of securities to investors. Trinity has not filed a Securities Act registration statement or made a Regulation D filing with the Commission or any state claiming an exemption from registration requirements of the Securities Act for its offering of securities, nor has it registered a class of securities under the Exchange Act.
- 17) **Stanley W. Anderson**, 63, of Arvada, Colorado, is the chairman and chief executive officer of Trinity and CFO-5.
- 18) **Edwin A. Smith**, 57, of Denver, Colorado, is the president of Trinity and secretary of CFO-5.
- 19) **Charles L. Kennedy**, 66, of Tampa, Florida, is a vice president of CFO-5, a church pastor, and the director of a non-profit corporation called the Keys to Life Corporation. Kennedy acted as a finder and salesperson for the MTN program.

- 20) **Michael D. Norton**, individually and d/b/a Global Asset Services, 60, of Lakewood, Colorado, acted as a finder and salesperson for the MTN program.
- 21) **Nicholas R. Fair**, 61, of Ft. Collins, Colorado, acted as a finder and salesperson for the MTN program.

IV. RELATED ENTITY

- 22) **E-Smart Services Incorporated** is a Colorado corporation that purported to engage in a commercial credit card and payments business. Anderson was the chief executive officer of E-Smart and Smith was its vice-president. Anderson and Smith used investors' funds from the MTN program to pay E-Smart's debts and to pay judgments that had been entered against E-Smart, Anderson, and Smith in unrelated litigation.

V. THE MTN PROGRAM

PHASE 1 – April 2005 through January 2006

- 23) Anderson and Smith created the structure for a nationwide prime bank fraud when they incorporated Trinity in April 2005. Shortly thereafter, in or about June 2005, Anderson and Smith approached Kennedy to invest in the MTN program, believing that Kennedy, a pastor, operated an investment program in which individuals deeded their properties to Kennedy and Kennedy invested the equity in the properties.
- 24) Kennedy, a pastor of a church in Florida, did not invest in the MTN program. Instead, in July 2005, Kennedy agreed to enter into a joint venture with Trinity in launching the MTN program.
- 25) Kennedy did not perform any due diligence regarding the MTN program, Anderson, or Smith. Nevertheless, in or about September 2005, Kennedy introduced Anderson and

Smith to Carroll C., one of the individuals who previously had deeded property to Kennedy.

- 26) On October 21, 2005, an individual who had learned negative information about prime bank trading programs on [ww.publicdebt.treas.gov/cc/ccphony9.htm](http://www.publicdebt.treas.gov/cc/ccphony9.htm), emailed the link to Smith stating that he and Carroll C. wanted to make sure that “what we are involved with is legit.”
- 27) The website www.publicdebt.treas.gov/cc/ccphony9.htm, among other things, provided the following information and linked to the SEC’s Prime Bank Fraud Information website.

[Is it real No! - How the Fraudsters Explain this Secret World.](#)

The world of secret bank trading programs as depicted in the following link does not exist. While there is institutional trading of medium term notes and other debt instruments, there is no world of secret, off-book trading by large European banks where "traders" or "commitment holders" are invited into the mix. . . .

. . .

11 Warning Signs:

- | | |
|-------------------------------------|---|
| 1. Name dropping. | 6. Unwarranted appearance of professionalism. |
| 2. Buzzwords. | 7. Big player behind the scenes. |
| 3. Excessive secrecy. | 8. Yields are too high. |
| 4. Over-reliance on authentication. | 9. Lack of transactional basis. |
| 5. Excessive disclaimers. | 10. The existence of a secondary market where these investments can be laid off quickly and profitably. |
| | 11. Flawed documentation. |

- 28) Anderson responded on the same day, stating that he and Smith had reviewed with great interest the links to the various Treasury Department warnings about prime bank scams. However, Anderson stated that he was a friend of the senior manager with the Bureau of Public Debt, as well as “their #2 person;” and that “[k]nowing them as well as I do, and

knowing the detail with which they deal with banks and regulations, there is NO WAY that Ed [Smith] or I want to be part of anything that is not legitimate.” Anderson assured Carroll C. that he and Smith had thoroughly researched MTNs.

- 29) Sometime in December 2005, Anderson and Smith formed CFO-5. Trinity was CFO-5’s “managing member,” Anderson its chairman, Smith its secretary, Kennedy its vice-president and moral and spiritual adviser, and Carroll C. its real estate adviser.
- 30) Around the same time, Carroll C. introduced Anderson and Smith to an Oklahoma investor. Anderson and Smith solicited the investor for the MTN program, representing, among other things, that the investor’s money would be used as a fee to “rent” approximately \$35 million for a period of about 30 days to trade in MTNs; that contracts were already in place with an MTN seller and an MTN buyer; and that the trade would be completed as soon as the funds were forwarded to the MTN seller.
- 31) A December 15, 2005, memorandum from Anderson to the Oklahoma investor’s representative claimed that 95% of investors’ funds were immediately placed into an escrow account for the MTN trading program; a deposit into escrow triggered the “Major Funding Partner” to “obligate” funds in order for the trading of MTNs to commence; and distributions to investors from the investor pool would be made “at least weekly.”
- 32) Carroll C. also provided other potential investors with information from a one-page “Investment Pool Opportunity” document prepared by Anderson that stated that trading would commence within weeks. The document claimed that Trinity traded in “private placement medium term senior unsubordinated bank debentures with normal ICC Non-Circumvention, Non-Disclosure Rules and Regulations applied.” In fact, promoters in

prime bank schemes commonly use similar nonsensical descriptions of bank debentures to mislead potential investors.

- 33) On December 15, 2005, Anderson sent Carroll C. an email assuring him that 50% of all net proceeds would go to humanitarian causes, which is also a common ruse in prime bank schemes. Smith and Kennedy received copies of the email.
- 34) During December 2005, investors in the MTN program wired over \$170,000 to the Trinity bank account.
- 35) On January 9, 2006, the Oklahoma investor wired \$1.6 million to the Trinity bank account. To make the investment, the Oklahoma investor obtained a bank loan which was to be repaid in less than 30 days with the returns from the MTN program. In emails with the investor's representative, Anderson and Smith stated that they authenticated the MTNs before releasing investors' funds, a practice that they claimed to "follow daily in the buying and selling of securities." At the time of this statement, Trinity/CFO-5 had neither bought nor sold a single MTN.
- 36) Defendant Fair joined the MTN scheme and solicited his first investors for the MTN program in January 2006. On January 19, 2006, two Indianapolis investors solicited by Fair wired \$25,000 to the Trinity bank account, and an Arizona investor solicited by Fair wired \$25,000 to the Trinity bank account. Fair asserted his rights under the Fifth Amendment during the Commission's investigation of this matter and refused to provide any information in response to questions about his participation in the MTN program.
- 37) On January 25, 2006, \$1.44 million was wired from the Trinity bank account to an escrow account in New York, from which the funds were wired to accounts in Germany,

Seychelles, Turkey, Cyprus, Gibraltar, Hong Kong and Dubai. However, there were no MTN transactions, the funds were used to pay “rental fees” for money that Trinity never accessed, and the entire \$1.44 million was lost.

- 38) Anderson, Smith, Kennedy, and Fair continued to solicit investors for the MTN program after the \$1.44 million loss and investors continued to wire funds into the Trinity bank account.
- 39) The MTN program raised a total of about \$1.8 million from investors during the period April 2005 through January 2006 (called here Phase 1).

PHASE 2 – February 2006 through March 2006

- 40) During the months of February and March 2006 (called here Phase 2), the defendants raised an additional \$875,000 using a so-called private placement memorandum.
- 41) Sometime after January 31, 2006 and before March 15, 2006, CFO-5 issued a document called a “Private Placement and Rescission Offer” (“the rescission offer”) that purported to “fully inform” investors from Phase 1 and provide them with the opportunity to receive all of their money back with interest if they so elected. The stated rationale for the rescission offer was for CFO-5 to come into compliance with federal and state securities laws. If investors did not rescind, their investment and the promised returns remained the same. The rescission offer stated that CFO-5 anticipated receiving investment returns within 30 days.
- 42) Anderson and Smith remained in contact with the Oklahoma investor during the rescission period, stating in a February 15, 2006, letter that they were “on track,” having “executed all of the necessary documents” for the initial trading transaction and that they anticipated

trades within two weeks. Anderson and Smith sent the investor an email on February 15, 2006, claiming that returns would be disbursed to investors after they built “initial and new trading account balances in Germany around March 10th to the 15th.” For these and other reasons, the Oklahoma investor did not request a refund under the rescission offer.

- 43) In or before March 2006, defendant Norton joined the MTN scheme and began soliciting investors for the MTN program. Norton asserted his rights under the Fifth Amendment during the Commission’s investigation of this matter and refused to provide any information in response to questions about his participation in the MTN program.
- 44) On or before March 4, 2006, Anderson and Smith informed investors that the first MTN transaction had not been completed and began to solicit an additional \$875,000 that was purportedly required to “extend” the 30-day window to complete an imminent MTN transaction. Phase 1 investors were told that they would share in the returns from the transaction.
- 45) Beginning in March 2006, Anderson and Smith distributed to potential investors by email and United States mail a “private placement memorandum” (“PPM”) that characterized the MTN program as a “private placement.” The MTN program now required a \$25,000 minimum investment. The PPM stated that Trinity and CFO-5 anticipated generating revenue from an initial transaction on or about April 30, 2006, and included a chart showing that for every \$25,000 investment, an investor could anticipate weekly earnings of \$95,760 for an undefined length of time. However, on March 5, 2006, Anderson issued instructions that the PPM should be sent to prospective investors only after they had committed to invest in the program.

- 46) Norton and Fair encouraged people who did not have sufficient funds to find other investors to “pool” their funds to meet the \$25,000 minimum; repeated to investors untrue claims of Anderson and Smith regarding the MTN investment program; and, through telephone conferences, email and U.S. mail, raised funds from investors located in various states. Norton and Fair used the PPM with potential investors.
- 47) In or around March 2006, Kennedy began soliciting pastors to invest in the MTN program. To lure the other pastors, Kennedy used a one-page offering memo directed to “FODC Churches and FODC Members” from Kennedy’s non-profit organization, Keys to Life Corporation (the “FODC offering memo”). The FODC offering memo claimed that investors’ funds would be placed in a single investment pool that traded in “rated Medium Term Notes issued by major European banks” and that the securities were purchased at a discount and sold to “qualified exit buyers.” The materials stated that ABN-AMRO, which is one of the largest banks in Europe, would purportedly “authenticate” and “verify” the European securities before purchase and serve as the “settlement bank” for investors’ returns. For “every \$1,000 invested, the minimum return would be \$1,000,000” payable in 90 days. Kennedy orally assured at least one pastor/investor that the MTN program was risk-free.
- 48) By at least March 2006, Anderson and Smith had begun a process of sending periodic emails to investors and conducting investor conference calls in which existing investors were lulled with promises of an imminent MTN transaction and potential investors were solicited. Kennedy discussed the substance of these conference calls with the pastors. Norton and Fair reported information from the conference calls to investors.

- 49) On March 22, 2006, Anderson and Smith forwarded \$734,000 to an escrow account in New York. Again, the funds were wired to off-shore accounts where they were used pay fees to rent funds CFO-5 never accessed, no MTNs were purchased or sold, and the entire \$734,000 was lost.
- 50) Nevertheless, Anderson and Fair continued soliciting Funds and told a potential investor on March 28, 2006, to wire funds to the Trinity bank account no later than March 31, 2006.

PHASE 3 – April 2006 through July 2007

- 51) Despite their empty promises, the defendants were able to solicit new investors and to lull existing investors during the period April 1, 2006, through at least July 31, 2007 (called here “Phase 3”). Investors paid approximately \$2.4 million for securities in the MTN program during Phase 3.
- 52) Kennedy continued to solicit investments in the MTN program from pastors who shared his religious affiliation. He contacted these pastors by telephone and had personal meetings with at least some of them. Kennedy did not perform any due diligence regarding MTNs, Anderson, or Smith prior to soliciting the pastors. Anderson and Smith promised Kennedy that he would receive one-third of CFO-5’s profits.
- 53) Through his efforts, Kennedy raised approximately \$245,000 from approximately 10 pastors. However, Kennedy did not forward the funds to the Trinity bank account. Instead, Kennedy misappropriated the pastors’ funds and spent their money for his own purposes.

- 54) On April 5, 2006, Anderson informed investors by email that a “trade facilitator” was ill but that the MTN program was still on target for the last week of April as the first “payday.”
- 55) However, on or about May 1, 2006, Smith “dropped the bombshell” in an investor conference call that the “investor pool money was gone” and investors were outraged. The following day, Anderson sent an email “recap” of the call that stated while the “Seller” had changed, “we remain on track for the first distributions to occur around May 15th” and “we also have a back up seller and exit buyer in place, as is our customary business strategy.” In fact, there were no trades in the pipeline, there were no “back up” sellers and “exit buyers,” and the May 15th projected distribution date was pure fiction.
- 56) On May 15, 2006, Anderson, Smith, Kennedy, Norton, and Fair received a letter from investors demanding a report showing how investors’ funds had been utilized.
- 57) By June 2006, Norton had the single largest number of investors in the MTN program and Norton and Fair were the MTNs program’s primary link to local investors.
- 58) By August 2006, Norton and Fair had raised more than \$1.3 million and \$1.1 million, respectively, from investors.
- 59) Despite the loss of investor funds, Anderson continued to send regular emails to investors and to conduct investor conference calls where he told current and prospective investors that a trading transaction was complete or was almost complete, and represented that all investors would receive enormous payouts from the transaction. For example:
 - a) On August 10, 2006, Anderson sent an email to investors claiming that a large investor had provided a \$300 million line of credit to the pool, the conversion to cash

was complete, the securities were in place, and the target date for disbursement of returns to investors remained the end of August. Kennedy, Norton, and Fair also received the email.

- b) On September 6, 2006, Anderson sent an email to investors claiming that documentation was “now underway” in a trade with a “major European Bank.” Smith, Kennedy, Norton, and Fair also received the email.
- c) On October 25, 2006, Anderson sent an email to investors claiming that “the first trade has begun” and that \$15 million would be sent to the investment pool over two days near the end of the month. Smith, Kennedy, Norton, and Fair also received the email.
- d) On November 1, 2006, Anderson sent an email to investors claiming that an MTN purchase, with a “Large Investor” providing the funds, would be completed within days, yielding a \$100 million investment pool for existing investors and that distributions by wire would begin on November 7 or 8, 2006. Smith, Kennedy, Norton, and Fair also received the email.
- e) On December 27, 2006, Anderson sent an email to investors claiming that full trading was expected to begin the week of January 8, 2007. Smith, Kennedy, Norton, and Fair also received the email.
- f) On about January 10, 2007, Anderson sent an email to investors claiming that three large trading transactions would begin shortly, with distributions from the first transaction, a purported \$5 billion contract, to begin on January 19, 2007. Smith, Kennedy, Norton, and Fair also received the email.

- g) On January 26, 2007, Anderson sent an email to investors claiming that a “Large Investor,” the Large Investor’s “team,” and a “Wall Street CEO” were working in Europe on the first transaction and that there would soon be daily trading on a purported \$5 billion contract. Smith, Kennedy, Norton, and Fair also received the email.
 - h) On March 9, 2007, Anderson claimed in an investor conference call that paperwork on transactions that would provide regular earnings to the investor pool participants was being finalized and trading would begin soon on a second transaction.
 - i) On April 4, 2007, Anderson sent an email to investors stating that “[t]rading is underway to support our first distribution.” Smith, Kennedy, Norton, and Fair also received the email.
- 60) Norton worked closely with Anderson and Smith, forwarding Anderson’s updates to investors and reporting on conference calls. For example:
- a) On March 23, 2007, after receiving numerous communications from angry investors, Anderson sent an email to investors falsely claiming that plans were being finalized for the distribution to the investor pool. Norton thanked Anderson and Smith for the email.
 - b) On March 25, 2007, an investor who needed funds for his wife’s medical care told Norton in a series of emails how glad he was that trading had started and stated that Norton’s confidence in the potential income had caused them to invest.
 - c) On March 27, 2007, an investor thanked Norton for an encouraging update call.

- 61) While there were never any MTN trades, Anderson and Smith continued to lull unhappy investors and Norton and Fair continued to solicit funds from investors through at least July 2007. For example:
- a) An investor told Anderson in an email dated April 19, 2007 that he was “beginning to believe that this program is a scam and you are the Scam Artist!” Days later, Anderson reported in an investor conference call that they anticipated receiving funds “very soon.”
 - b) On May 11, 2007, an unhappy investor complained to Anderson that Norton had misrepresented the returns that investors would receive. Meanwhile, notes from Anderson’s May 11, 2007, investor conference call showed Anderson promising the MTN investors that they should look for “multiple distributions” over the “next 10 business days.”

VI. MATERIAL MISSTATEMENTS AND OMISSIONS

- 62) In the course of offering and selling the unregistered securities, the defendants and their agents, knowingly and with a reckless disregard for the truth, made numerous material misrepresentations and omissions of material fact, including the misrepresentations and/or omissions set out in paragraphs 4-6, 25, 28-33, 35-37, 41-50, 52-55, 59-61 above and in paragraphs 63-71 below.
- 63) A document entitled “CFO-5 Investor Opportunity Summary” distributed by Anderson and Smith to potential investors contained numerous falsehoods and misrepresentations, including the statement that “Trinity through its joint efforts with its LLC partners has

developed an investment of \$35 Million where the Investor will receive a return of \$650 Million after 90 days of trading securities.”

64) The defendants and their agents failed to inform investors that the following statements in the PPM dated March 3, 2006 were false or misleading:

- a) “Trinity has knowledge and relationship with certain qualified parties whose expertise includes the ability to sell and purchase Medium Term Senior Unsubordinated Bank Debentures.”
- b) “We buy and sell very specific instruments with predetermined profit margins. We in turn sell the unsubordinated debentures to ready and able buyers. The transactions are executed electronically through the EuroClear System.”
- c) “The Company is offering the investment through its managing members who will not receive any commissions.”
- d) “To date, we have not experienced any significant amount of bad debts or failed transactions.”
- e) “[T]here are no judgments, liens, encumbrances or defaults of any nature against the company, its managers or significant personnel.”
- f) “We anticipate the initial transaction will generate revenue on or about April 30, 2006.”
- g) Assuming CFO-5 raised \$3 million for the investor pool, an investor who made the \$25,000 minimum investment could anticipate “potential returns” of \$95,760 each week for an unspecified period of time.

- 65) In reality, there was no MTN program; Trinity did not have the expertise and relationships that it claimed to have; Trinity paid commissions to its salespersons; at the time of the issuance of the PPM, Trinity had lost \$1.44 million in funds sent to the New York escrow account; Anderson and Smith had large outstanding judgments against them from the E-Smart litigation; and the anticipated investor returns were pure fiction.
- 66) Further, the PPM, the rescission memo, and other documents provided to investors touted Smith's alleged banking experience, including a purported twenty years in "business banking," but did not disclose that Smith had been an airline baggage handler for the last fourteen years.
- 67) The defendants did not disclose that the rescission offer was a sham because there insufficient funds to repurchase investors' securities.
- 68) CFO-5, Trinity, Anderson, and Smith failed to disclose that they distributed investors' funds for unauthorized purposes as described in paragraphs 72-75 below.
- 69) Norton and Fair failed to disclose that they received upfront fees paid out of investors' funds. In addition, Norton and Fair failed to disclose that they had a "special funding arrangement" where CFO-5 agreed to pay them 30% commissions for funds raised during the period December 2006 through April 2007.
- 70) Anderson, Smith, Kennedy, Norton and Fair failed to disclose that they each had misappropriated investors' funds.
- 71) Anderson, Smith, and Norton failed to disclose they used investors' funds to make Ponzi-scheme like payments to unhappy investors.

VII. ILL-GOTTEN GAINS

- 72) Defendants solicited a total of approximately \$5.1 million from investors. Of that amount, the Commission's investigation to date indicates that approximately \$2.93 million was paid to the defendants, misappropriated by the defendants, used to make Ponzi-like payments to investors, or spent for unauthorized purposes. CFO-5 expended the remaining funds, \$2.17 million, in payments for rental fees for access to large sums of money for short periods of time.
- 73) The Commission's investigation to date indicates that Anderson and Smith pocketed approximately \$372,500 and \$673,285, respectively, of investors' funds and that they jointly spent an additional amount, totaling approximately \$1,516,420, for unauthorized purposes, including \$415,000 for Ponzi-like payments to investors; \$263,329 to satisfy unrelated civil judgments; \$98,237 to pay off unrelated loans; and over \$100,000 for travel.
- 74) Kennedy misappropriated the entire \$245,000 that he received from the pastors who invested in the MTN program through him.
- 75) Norton received a total of approximately \$98,450 in investors' funds, some of which were paid to him by CFO-5 as commissions and some of which Norton misappropriated. Norton used \$31,000 of the investors' funds to make Ponzi-like payments to unhappy investors.
- 76) Fair misappropriated at least \$7,000 in investors' funds and received an additional \$16,000 from CFO-5 as commission payments.

CLAIMS FOR RELIEF

FIRST CLAIM

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

- 77) Paragraphs 1 through 74 are re-alleged and incorporated by reference.
- 78) By engaging in the conduct described above, defendants **CFO-5, Trinity, Anderson, Smith, Kennedy, Norton** and **Fair** have, directly or indirectly, with scienter, in the offer or sale of securities, by use of the means or instruments of transportation or communication in interstate commerce or by use of the mails, employed a device, scheme, or artifice to defraud.
- 79) By reason of the foregoing, defendants **CFO-5, Trinity, Anderson, Smith, Kennedy, Norton** and **Fair** violated, and unless restrained and enjoined will in the future violate Section 17(a)(1) of the Securities Act.

SECOND CLAIM

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

- 80) Paragraphs 1 through 74 are re-alleged and incorporated by reference.
- 81) By engaging in the conduct described above, defendants **CFO-5, Trinity, Anderson, Smith, Kennedy, Norton** and **Fair** have, directly or indirectly, in the offer or sale of securities, by 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 omissions to state material facts necessary to make the

statements made, in light of the circumstances under which they were made, not misleading.

- 82) By engaging in the conduct described above, defendants **CFO-5, Trinity, Anderson, Smith, Kennedy, Norton** and **Fair** engaged in transactions, practices, or courses of business which have been or are operating as a fraud or deceit upon the purchasers of securities.
- 83) By reason of the foregoing, defendants **CFO-5, Trinity, Anderson, Smith, Kennedy, Norton** and **Fair** violated, and unless restrained and enjoined will in the future violate Sections 17(a)(2) and (3) of the Securities Act.

THIRD CLAIM

**Fraud in the Purchase or Sale of Securities
Violations of Section 10(b) and Rule 10b-5 of the Exchange Act
[15 U.S.C. § 78j(b) and 17 C.F.R. § 240.10b-5]**

- 84) Paragraphs 1 through 74 are re-alleged and incorporated by reference.
- 85) By engaging in the conduct described above, defendants **CFO-5, Trinity, Anderson, Smith, Kennedy, Norton** and **Fair** have, directly or indirectly, with scienter, by use of the means or instruments of interstate commerce or by use of the mails, or any facility of a national securities exchange, used or employed, in connection with the purchase or sale of securities, a manipulative or deceptive device or contrivance in contravention of the rules and regulations of the Commission; employed devices, schemes, or artifices to defraud; 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 engaged in acts, practices, or courses of business which operated or would operate as a fraud or deceit upon any person.

- 86) By reason of the foregoing, defendants **CFO-5, Trinity, Anderson, Smith, Kennedy, Norton** and **Fair** violated, and unless restrained and enjoined will in the future violate Section 10(b) and Rule 10b-5 of the Exchange Act.

FOURTH CLAIM
Sale of Unregistered Securities
Violations of Sections 5(a) and (c) of the Securities Act
[15 U.S.C. §§ 77e(a) and 77e(c)]

- 87) Paragraphs 1 through 74 are re-alleged and incorporated by reference.
- 88) By engaging in the conduct described above, defendants **CFO-5, Trinity, Anderson, Smith, Kennedy, Norton** and **Fair** have directly or indirectly, by use of the means or instruments of transportation and communication in interstate commerce or by use of the mails, offered to sell or sold securities or carried or caused such securities to be carried through the mails or in interstate commerce, for the purpose of sale or delivery after sale.
- 89) No valid registration statement was filed or in effect with the Commission and no exemption from registration existed with respect to the securities and transactions described in this Complaint.
- 90) By reason of the foregoing, defendants **CFO-5, Trinity, Anderson, Smith, Kennedy, Norton** and **Fair** violated, and unless restrained and enjoined will continue to violate Sections 5(a) and 5(c) of the Securities Act.

FIFTH CLAIM
Acting as Unregistered Broker-Dealer
Violations of Section 15(a) of the Exchange Act
[15 U.S.C. § 78o(a)]

- 91) Paragraphs 1 through 74 are re-alleged and incorporated by reference.
- 92) By engaging in the conduct described above, defendants **Anderson, Smith, Kennedy, Norton** and **Fair**, who are persons other than a natural person or persons not associated with a broker or dealer which is a person other than a natural person, made use of the mails or means or instrumentalities of interstate commerce to effect transactions in or to induce or attempt to induce the purchase or sale of a security without being registered in accordance with Section 15(b) of the Exchange Act.
- 93) Defendants **Anderson, Smith, Kennedy, Norton** and **Fair** acted as unregistered broker-dealers in connection with the offer and sale of securities.
- 94) By reason of the foregoing, defendants **Anderson, Smith, Kennedy, Norton** and **Fair** violated, and unless restrained and enjoined will continue to violate Section 15(a) of the Exchange Act.

PRAYER FOR RELIEF

WHEREFORE, the Commission respectfully requests that this Court:

- 1) Find that **CFO-5, Trinity, Anderson, Smith, Norton,** and **Fair** committed the violations alleged;
- 2) Enter an Injunction, in a form consistent with Rule 65(d) of the Federal Rules of Civil Procedure, permanently restraining and enjoining defendants **CFO-5, Trinity,** and their subsidiaries, officers, directors, agents, servants, employees, successors in interest, and attorneys-in-fact, and all persons in active concert or participation with them, and

defendants **Anderson, Smith, Kennedy, Norton and Fair**, their agents, servants, employees, and attorneys, and all persons in active concert or participation with them, from violating, directly or indirectly, the laws and rule alleged in this complaint;

- 3) Order that each defendant and any trade name entity controlled by a defendant provide a sworn accounting of proceeds obtained from the scheme;
- 4) Order that defendants disgorge all ill-gotten gains in the form of any benefits of any kind received as a result of the acts and courses of conduct in this Complaint;
- 5) Order that defendants **CFO-5, Trinity, Anderson, Smith, Kennedy, Norton and Fair** pay civil penalties, including post-judgment interest, 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)]; and
- 6) Order such other relief as is necessary and appropriate.

JURY DEMAND

Plaintiff demands a jury trial in this matter.

Respectfully submitted, July 28, 2008.

/s/ Barbara T. Wells
Barbara T. Wells
Trial Attorney
U.S. Securities and Exchange Commission
1801 California Street, Suite 1500
Denver, CO 80202
Switchboard 303.844.1000
Direct 303.844.1005
Fax 303.844.1010