

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

CASE NO.

SECURITIES AND EXCHANGE COMMISSION,)
)
 Plaintiff,)
)
 v.)
)
 JAMES CLEMENTS AND ZEINA SMIDI,)
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 Defendants.)
)

COMPLAINT FOR INJUNCTIVE AND OTHER RELIEF

Plaintiff Securities and Exchange Commission alleges as follows:

INTRODUCTION

1. Defendants James Clements and Zeina Smidi, through the companies they jointly controlled: MRT, LLC; MRT Holdings, LTD; and Maximum Return Transaction, LLC (collectively "MRT"); operated a Ponzi scheme by offering and selling at least \$30 million of unregistered investment contracts and promissory notes to hundreds of investors nationwide from 2005 until the summer of 2007. MRT, through Clements and Smidi, baselessly offered investors guaranteed monthly returns as high as 11%. Clements and Smidi told initial investors MRT used investor proceeds to trade foreign currencies, and falsely told later investors it invested in high-yielding investment products overseas.

2. Clements solicited investors to purchase MRT's securities, handled investor funds, received and facilitated the payment of transaction-based compensation to MRT's account

managers, and later met with MRT's account managers to instruct them on MRT's changing investment strategy.

3. Additionally, Clements offered and sold MRT's securities to investors. Clements told investors about MRT's promised rates of return, use of proceeds, and methods for generating investor returns. After investors decided to purchase MRT securities, Smidi told investors how to wire funds to MRT and effect their purchase of MRT's securities. She also falsely described MRT's intended use of investor proceeds.

4. Ultimately, MRT unprofitably traded just a small fraction of investor money in foreign currencies. Clements and Smidi siphoned millions from MRT to pay for, among other things, travel and luxury items.

5. Through their conduct, Clements and Smidi violated Section 10(b) of the Securities Exchange Act of 1934 ("Exchange Act") and Exchange Act Rule 10b-5 [15 U.S.C. §78j(b) and 17 C.F.R. §240.10b-5]. Additionally, through his conduct, Clements 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 15(a) of the Exchange Act [15 U.S.C. §78o(a)]. Unless the Court enjoins them, they are reasonably likely to engage in future violations of the securities laws.

DEFENDANTS AND RELATED PARTIES

6. Clements age 45, resides in Plantation, Florida and was a principal of MRT during all relevant times.

7. Smidi age 27, resides in Plantation, Florida and was a principal of MRT during all relevant times.

8. MRT, LLC was a Florida limited liability company with its principal place of business in Plantation, Florida. Florida administratively dissolved MRT, LLC in 2008 for failing to file an annual report.

9. MRT Holdings, LTD was an international business company formed in the Republic of Seychelles. Investors have filed civil actions against MRT, LLC and MRT Holdings, LTD. As a result both are under the control of a federal court appointed receiver.

10. Maximum Return Transaction, LLC was a limited liability company registered in the state of Delaware.

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 77(v)(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 many of the Defendants' acts and transactions constituting violations of the Securities Act and the Exchange Act occurred in the Southern District of Florida. The Defendants operated the Ponzi scheme from MRT's offices in Plantation. In addition, as described above, the Defendants reside in Broward County.

13. In connection with the conduct alleged in the Complaint, the Defendants, directly and indirectly, singly or in concert with others, have made use of the means or instrumentalities of interstate commerce, the means or instruments of transportation and communication in interstate commerce, and the mails.

THE DEFENDANTS' FRAUDULENT SCHEME

A. Currency Trading

14. From 2005 until the end of 2006, MRT and Clements told investors they would generate between 5% and 11% in guaranteed monthly returns by using investor money loaned to MRT to trade foreign currencies. The promised rate of return varied from investor to investor. MRT, Clements, and Smidi touted MRT's investment success to draw in new investors. MRT also used certain investors who agreed to be "account managers" to solicit hundreds of investors through informal gatherings and word of mouth. MRT paid the account managers a percentage of the investors' promised returns.

15. While MRT's account managers often solicited investors for MRT, Clements also pitched MRT's offering to investors. Clements told investors MRT would trade investor funds in foreign currency markets and generate very high returns. Clements explained that from the foreign currency trading profits, MRT would pay a small percentage of each investor's returns to the investors' account manager, pay each investor their promised rate of return, and keep any excess profits. Clements and account managers referred investors to Smidi who provided investors information on how to effect their investment in MRT and where to wire funds.

16. MRT investors received a wide range of offering materials with varying terms and descriptions of the investment. The offering documents referred to MRT as a "private investment group" or a "capital management firm" and the promised returns varied among the different offering documents. One version of offering document dated February 2006 referred to investors as "lenders", and claimed that "standard returns, although not guaranteed, are not limited to 10% per month." Another version dated March 2006 also stated the investor was lending MRT a specific amount, "to be repaid at a rate of 11% or better, but no less than 10% per

month.” Smidi told some investors that MRT would begin trading their funds in the foreign currency markets within days of receiving the investment.

17. After receiving investors’ funds, MRT created online accounts for investors on one of its password-protected websites, www.mrtholdings.com, www.mrtmembers.com, and/or www.themrtllc.com. Through the websites investors were able to see monthly gains and ongoing account balances, and request withdrawals. MRT paid returns to some investors. Others who chose to roll over their profits saw their purported online account balances rapidly grow at their promised rates of return.

B. Fixed Rate and High-Yield Savings Accounts

18. By late 2006, MRT began to reduce the promised rates of returns to investors. MRT and Clements told investors deposits made after December 30th would generate 1.25% to 1.95% monthly returns. In April 2007, MRT told investors in an email it was “shift[ing] to a new entity, in a protected jurisdiction”, and that MRT was going to “be transformed from MRT LLC to MRT Holdings, an offshore entity.” That same month, Smidi wrote to an investor and explained that “[w]e have chosen Belize because this allows us to offer our very lucrative products and manager program to you. After two years of legal research, we have found that transitioning offshore is the best way to keep our program compliant.”

19. Later, in June 2007, Clements told MRT’s account managers that MRT would no longer be trading foreign currencies. Clements and Smidi instead claimed in a letter to investors they wanted MRT’s money working with the best Swiss banks and advisors, and were searching for a high-yielding product that also offered a high level of security.

20. Clements and Smidi further advised investors they could choose to roll over their existing investment and make future ones into two different investments: (1) a fixed rate account

with an individual promissory note assigned to the principal that earned up to 25% annually but did not permit funds to be withdrawn for at least one year; and (2) a high-yield savings account that earned up to 15% annually but allowed monthly withdrawals.

21. In addition, Clements told some MRT account managers and investors in June 2007 that he was putting investors' monies into a Swiss annuity.

22. To further the scheme, MRT sent promissory notes to its then current investors to fill out and return to switch their accounts to the fixed rate accounts. If an investor did not execute a promissory note, their account was automatically rolled over to a high-yield savings account.

23. MRT's online account statements continued to reflect gains, although at the lower promised rates of return. During the early fall of 2007, MRT stopped answering investor phone calls, fulfilling redemption requests or responding to emails. However, MRT's online account statements continued to display monthly investor gains at the promised rates of return through February 2008.

C. Material Misrepresentations and Omissions to Investors

24. Clements and Smidi touted MRT's investment success to draw in new investors. However, MRT's claims were baseless and fraudulent. For example, in a June 2007 letter to investors, Clements and Smidi claimed "MRT has had two great years in our currency trading accounts..." and "we have grown into a \$50,000,000 success..." In reality, Clements and Smidi operated a Ponzi scheme with at least \$30 million raised from investors.

25. In fact, MRT never traded more than a fraction of what it collected from investors. MRT only used approximately \$2.25 million of at least \$30 million raised to trade in foreign currencies, with never more than \$1.83 million in its trading account at one time.

Overall, MRT lost approximately \$65,000 trading in foreign currencies. In April and May 2006, MRT also invested approximately \$550,000 in a now-defunct currency trading firm that never returned MRT's funds. In another misrepresentation, Clements told some account managers and investors that MRT would invest their funds in Swiss annuities. In reality, MRT never directly deposited investor funds with a Swiss bank or in any annuities.

26. Even with MRT's losses, Clements told investors MRT's foreign currency traders were consistently able to achieve better than 10% monthly returns, and that MRT would pay the promised rate of return from this profitable trading. In reality, the returns MRT paid to investors came from subsequent investor deposits.

27. Moreover, Clements and Smidi misled investors about MRT's use of investor funds. Clements and Smidi told initial investors MRT used investor proceeds to trade foreign currencies, and falsely told later investors it invested in high-yielding investment products overseas. Clements and Smidi misrepresented to investors that payments MRT made to them represented returns from MRT's profitable trading. For example, MRT received approximately \$10 million in investor deposits from over two hundred investors between June 1, 2006 and the time it emptied its Forex account in November, 2006, yet MRT only made two deposits in its Forex account, in June and October, for approximately \$315,000.

28. Further, it was Smidi's practice to send investors an email informing them MRT had received their investments and would begin trading their funds by a particular date. For example, Smidi told two investors by email in July and August 2006 MRT had received and would begin trading their respective funds totaling \$60,000 in the days immediately following their investments. In another example, Smidi told one investor by email in December 2006 that

MRT had received and would begin trading his funds in the foreign currency markets despite the fact that MRT had withdrawn all of the money from its Forex account a month earlier.

29. Clements and Smidi each had access to MRT's currency trading and bank accounts. Clements and Smidi contacted MRT's currency trading firm numerous times with questions regarding account statements, deposits and withdrawals. Clements and Smidi also effected numerous transactions in MRT's bank accounts.

30. Clements and Smidi knew that their statements to investors regarding MRT's use of proceeds were false since they were running a Ponzi scheme and misappropriating investors' funds for their personal use.

31. Clements and Smidi, who jointly controlled MRT's bank and trading accounts, siphoned approximately \$3 million of MRT investor monies to their personal bank accounts. They additionally paid out approximately \$3 million for travel, expenses, and luxury items. This includes more than \$280,000 spent on professional sporting events, more than \$270,000 to hotels, and more than \$150,000 to various national airlines.

CLAIMS FOR RELIEF

COUNT I (AGAINST CLEMENTS)

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

32. The Commission repeats and realleges Paragraphs 1 through 31 of this Complaint.

33. From 2005 until the summer of 2007, Clements 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.

34. 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.

35. By reason of the foregoing, Clements directly and indirectly violated, and unless enjoined, is 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 (AGAINST CLEMENTS)

VIOLATIONS OF SECTION 17(a)(1) OF THE SECURITIES ACT

36. The Commission repeats and realleges paragraphs 1 through 31 of its Complaint.

37. From 2005 until the summer of 2007, Clements, 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.

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

COUNT III (AGAINST CLEMENTS)

VIOLATIONS OF SECTIONS 17(a)(2) AND 17(a)(3) OF THE SECURITIES ACT

39. The Commission repeats and realleges paragraphs 1 through 31 of its Complaint.

40. From 2005 until the summer of 2007, Clements, 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 as a fraud or deceit upon purchasers and prospective purchasers of such securities.

41. By reason of the foregoing, Clements, directly and indirectly, violated and, unless enjoined, is 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 (AGAINST CLEMENTS AND SMIDI)

**VIOLATIONS OF SECTION 10(b) OF THE EXCHANGE ACT
AND EXCHANGE ACT RULE 10b-5**

42. The Commission repeats and realleges paragraphs 1 through 31 of its Complaint.

43. From 2005 until the summer of 2007, 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 securities, knowingly, willfully or recklessly: (a) employed devices, schemes or 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 the light of the circumstances under which they were made, not misleading; or (c) engaged in acts, practices and courses of business which operated as a fraud upon the purchasers of such securities.

44. By reason 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 (AGAINST CLEMENTS)

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

45. The Commission repeats and realleges Paragraphs 1 through 31 of this Complaint.

46. From 2005 until the summer of 2007, Clements 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 he was not registered with the Commission as a broker or dealer or when he was not associated with an entity registered with the Commission as a broker-dealer.

47. By reasons of the foregoing, Clements directly or indirectly violated, and, unless enjoined, is reasonably likely to continue to violate, 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 Section 10(b) of the Exchange Act and Exchange Act Rule 10b-5; and additionally enjoin Clements, and his 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), 17(a) and 17(b) of the Securities Act, as well as Section 15(a)(1) of the Exchange Act.

III.

Accounting and Disgorgement

Issue an Order directing the Defendants to account for and 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 the Defendants to pay civil money penalties 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 it may enter, or to entertain any suitable application or motion by the Commission for additional relief within the jurisdiction of this Court.

March 30, 2011

Respectfully submitted,

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