

fraudulent schemes, such as “prime bank schemes.”

5. Despite the fact that he knew or had reason to know that the financing schemes were fraudulent, Louks has continued to tell FiberPoP investors and potential investors that they will receive a 100% return on their investments in a very short period of time. He has portrayed the investments as far more than the frauds they actually are.

6. By making material misrepresentations and omissions to FiberPoP investors, Defendants have engaged in and, unless enjoined, will continue to engage in transactions, practices and courses of business that violate Section 17(a)(1), (2) and (3) of the Securities Act of 1933 (“Securities Act”) [15 U.S.C. § 77q(a)(1), (2) and (3)], Section 10(b) of the Securities Exchange Act of 1934 (“Exchange Act”) [15 U.S.C. § 78j(b)], and Rule 10b-5 [17 C.F.R. § 240.10b-5] thereunder.

7. The SEC brings this lawsuit to put an immediate stop to Defendants’ ongoing violations of the federal securities laws, to prevent further harm to investors, and to seek disgorgement and civil penalties from Defendants stemming from their violations of the securities laws, among other remedies.

JURISDICTION AND VENUE

8. The SEC brings this action pursuant to Section 20(b) of the Securities Act [15 U.S.C. §77t(b)] and Sections 21(d) and 21(e) of the Exchange Act [15 U.S.C. §§78u(d) and 78u(e)].

9. This Court has jurisdiction over this action pursuant to Section 22 of the Securities Act [15 U.S.C. § 77v], Section 27 of the Exchange Act [15 U.S.C. § 78aa].

10. Venue is proper in this Court pursuant to Section 27 of the Exchange Act

[15 U.S.C. § 78aa]. Many of the acts, practices and courses of business constituting violations alleged herein have occurred within the jurisdiction of the United States District Court for the District of Minnesota.

11. Defendants reside and conduct business within the District of Minnesota.

12. Defendant directly and indirectly made use of the means and instrumentalities of interstate commerce and of the mails in connection with the acts, practices, and courses of business alleged herein, and will continue to do so unless enjoined.

DEFENDANTS

13. **James M. Louks**, age 60, is a resident of Owatonna, Minnesota. He is the founder, President, CEO, Director, and Chairman of the Board of FiberPoP Solutions, Inc.

14. **FiberPoP Solutions, Inc.** is a Minnesota corporation with its principal place of business in Owatonna, Minnesota.

OTHER RELATED ENTITIES

15. **FiberPoP UK Limited** is a Private Limited Company with its registered office in London, England. FiberPoP UK Limited (“FiberPoP UK”) was incorporated in 2014. It has no assets or operations. Louks fraudulently represented to investors that at least €1.5 billion of FiberPoP UK bonds have been listed on the London Stock Exchange.

FACTS

Background

16. FiberPoP was founded in 2003 to build, own, and operate fiber optic networks and data centers for communities and businesses.

17. To date, FiberPoP has no data centers, no employees, and no operations. It has never earned any revenue. It has no contracts with either content providers or customers.

18. FiberPoP's business plan involves building-out 17 distinct service areas, called "footprints," across the upper Midwestern United States. Defendants project that each area will require approximately \$576 million to roll out, for a total funding requirement of approximately \$10 billion.

19. In addition, FiberPoP has committed to other entities that, once it obtains its financing, it will fund approximately \$250 million in real estate acquisitions, \$1.4 billion in real estate development projects, and over \$740 million in other businesses.

Defendants' Attempts to Fund FiberPoP through Various Fraudulent Schemes

20. Since at least 2004, Defendants have attempted to utilize a number of different financing schemes to fund FiberPoP's operations. Many of these have been fraudulent schemes, including variations of advanced fee schemes and prime bank schemes.

21. None of the financing schemes that FiberPoP has pursued over the years has ever produced any funding for FiberPoP.

22. In 2004, Defendants pursued funding through a transaction in which, in exchange for an advance fee of \$200,000, FiberPoP was to receive at least \$20 million. Defendants never received this funding.

23. In 2012, Defendants provided an advanced fee of \$10,000 to “Vital Funds, Inc.,” ostensibly toward a two-year lease of a \$33 million stand by letter of credit. The individuals involved with Vital Funds, Inc. were found guilty of prime bank scheme-related criminal charges in April 2015 in *U.S. v. Holland et al.*, 3:14-cr-73 (M.D. Fla 2014).

24. In June 2013, Defendants deposited \$500,000 into an escrow account as a deposit for a \$35 Million stand by letter of credit. The individual with whom they deposited the funds emptied the escrow and was indicted for conducting a prime bank scheme.

25. In 2013, Defendants entered into an agreement with Worldwide Funding III wherein they deposited an advanced fee of \$90,000 into an escrow account, purportedly in exchange for a €10 million financial instrument. This instrument was then supposed to be placed into a trading account for FiberPoP’s benefit. The escrow account was emptied in September 2013, and Defendants never received the €10 million financial instrument.

26. In 2014, Worldwide Funding III and the associated individuals were found liable for securities fraud in *SEC v. Butts et al.*, 13-cv-23115 (S.D. Fla. 2013).

27. Over the years, FiberPoP has pursued a number of other financing schemes that were actually fraudulent advanced fee or prime bank schemes.

Defendants' Attempt to Fund FiberPoP through Fraudulent Bond Transactions

28. Defendants' most recent financing strategy ostensibly involves a serial offering of corporate bonds by FiberPoP UK.

29. Between November 1, 2014 and January 14, 2015, FiberPoP UK purportedly issued three €500,000,000 bonds. The bonds have coupon rates between 1.5% and 5.5%, and each bond calls for bi-annual coupon payments. Louks told investors that these bonds are listed on the London Stock Exchange.

30. Louks also told investors that Mark Neuhaus and/or his company, Natural Resources, Inc. ("NRI"), have agreed to purchase the bonds for 50% of their face value. Louks claims that Neuhaus and/or NRI will find secondary buyers for the bonds, that the bonds will be "monetized," and that the proceeds will be placed into a trading platform. Louks claims that this will lead to enormous profits for FiberPoP (in one estimation, he predicted returns of \$1.7 billion within a year).

31. Between October 2014 and August of 2015, the details of this plan have shifted multiple times. For example, the "place of settlement" has changed from JPMorgan, to Morgan Stanley, to the Bank of China, to "New York Securities Bank, Madrid."

32. The most recent version of this plan involves FiberPoP, through Neuhaus, providing three €500 million bonds to New York Securities Bank (which is located in an autonomous island nation in the Indian Ocean called Anjouan), to be used to secure bank guarantees, which will in turn fund a trading platform through TSB Bank in London, which will generate funds for FiberPoP, Neuhaus, and others.

33. Louks claims that he will continue to issue additional €500 million bonds, as long as there are interested buyers.

Second Tier Financing

34. In the event that one of these financing schemes does generate funds for FiberPoP, Defendants do not intend to place that money directly into FiberPoP's operations. Instead, Defendants plan to use those funds for second tier financing efforts.

35. For example, Defendants claim to have an agreement with a company called ARC Financial, a private company based in California, to provide second tier financing. Specifically, Defendants plan to give ARC Financial an advanced fee of \$55 million as a "cash security deposit." Then, they claim that ARC has agreed to provide them \$12 to \$14 million per month, for approximately 48 months, for a total of nearly \$600 million.

Defendants' Due Diligence

36. Defendants have not conducted any meaningful due diligence into the persons, entities, or transactions through which they have attempted to procure funds for FiberPoP. Louks never even met many of the individuals. Defendants did not review the entities' financial statements, and they did not request proofs of funds.

37. Defendants have had access to information suggesting that the type of financing transactions they have pursued, and still are pursuing, are fraudulent. For example, around 2011, Louks was advised against engaging in transactions involving "monetizing" stand by letters of credit, because they are fraudulent.

38. Louks is generally aware of public information indicating that the types of transactions that he has pursued are not legitimate.

39. Louks is aware that at least some of the individuals and entities through whom he has attempted to procure financing for FiberPoP have been investigated, prosecuted, and/ or sued for violations of the securities laws. For example, Louks is aware that Neuhaus was sued by the Commission and had a multi-million dollar judgment against him.

Defendants Raise Money for Fraudulent Transactions from Investors

40. Since at least 2003, Louks and FiberPoP have raised over \$4.3 million from at least 90 investors, from at least five states.

41. Defendants obtained investors for FiberPoP in several ways: through word of mouth to friends, family and acquaintances; through individuals acting as promoters; and through group presentations.

42. All FiberPoP investors entered into promissory notes with FiberPoP. The terms of these notes are essentially the same: the investor gives FiberPoP \$X in exchange for X shares of FiberPoP common stock and a promise that FiberPoP will repay \$2X “immediately upon the receipt of a pending” transaction.

Defendants’ Misrepresentations and Omissions to FiberPoP Investors

43. The promissory notes referenced whichever financing transaction or transactions were pending at the time the note was entered into. For example, a note entered into in April 22, 2005 references a “pending \$500,000,000 loan” expected by May 15, 2005.

44. Defendants represented to investors and potential investors that they would receive their money, plus the 100% return, within a few weeks' time.

45. Defendants also told investors that FiberPoP had signed contracts that amounted to billions of dollars of financing.

46. For years, Defendants have represented to investors that the transactions they have engaged in are legitimate and profits imminent. For example, in March of 2013, Louks told investors that, with transactions involving SBLCs and bank guarantees, "it is very difficult for anything to go wrong ... No one will ever be able to execute a fraud and get away with it." In April of 2015, Louks wrote, "my confidence level is very high. All of the way through the process I have felt that we have being [sic] working with people of good intentions and integrity...."

47. Defendants omitted information from their communications to investors and potential investors that renders their representations, including but not limited to the statements in paragraphs 43 through 46, misleading. For example, Defendants failed to inform investors and potential investors that each of their prior attempts to obtain financing through similar transactions had failed. Defendants also failed to inform investors and potential investors that these types of transactions are commonly believed to be fraudulent.

48. In addition, Defendants misrepresented FiberPoP's operating status and business prospects. For example, FiberPoP indicated in its 2011 business plan that it was "currently contracted to bring network infrastructure to all 470 Tier 1 and Tier 2 U.S. airports and over 7,000 U.S. oil wells," which was not true.

49. Defendants also represented to investors that they had “negotiated agreements” with a number of different service providers, which was not true. FiberPoP has ever had a contract with any service provider.

Defendants’ Use of Funds

50. Defendants have used all or most of the FiberPoP investors’ \$4.3 million to fund their financing projects, *i.e.*, they have given it to the perpetrators of various advanced fee and prime bank schemes.

51. Most recently, Defendants paid over \$350,000 of investor funds toward the purported bond transactions set up by Neuhaus.

52. In addition, Louks diverted at least \$78,000 to personal items in the past four years. Specifically, bank records show that he withdrew \$59,000 from FiberPoP’s bank account since 2011, and he made \$19,800 in payments on a loan to a company that he owns.

Defendants Continue To Defraud Investors

53. Defendants appear to be continuing their fraud. As recently as July 2015, Defendants transmitted a total of \$250,000 to accounts in the name of “Shadow Securities, Inc.,” purportedly to cover the costs of “safe keeping receipts” and SWIFT costs for a bank guarantee. All or most of these funds came from FiberPoP investors.

54. Defendants continue to solicit funds from investors. On July 2, 2015, Louks told investors that “[w]e are scheduled to meet with another investor for \$75,000 [w]hich will create the funds necessary to issue and register three FiberPoP bonds which will be place [sic] with another Bond Buyer.”

55. At least recently as August 26, 2015, Louks has continued to lull investors, promising imminent performance.

COUNT I

Violations of Section 17(a)(1) of the Securities Act

56. Paragraphs 1 through 55 are realleged and incorporated by reference as though fully set forth herein.

57. By engaging in the conduct described above, Defendants, in the offer and sale of securities, by the use of the means and instruments of transportation or communication in interstate commerce or by use of the mails, directly or indirectly, have employed devices, schemes and artifices to defraud.

58. Defendants intentionally or recklessly made the untrue statements and omissions and engaged in the devices, schemes, artifices, transactions, acts, practices and courses of business described above.

59. By reason of the foregoing, Defendants violated Section 17(a)(1) of the Securities Act [15 U.S.C. § 77q(a)(1)].

COUNT II

Violations of Section 17(a)(2) and (3) of the Securities Act

60. Paragraphs 1 through 55 are realleged and incorporated by reference as though fully set forth herein.

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

- a. obtained money or property by means of untrue statements of material fact

or by omitting to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; and

b. engaged in transactions, practices, or courses of business that operated or would operate as a fraud or deceit upon the purchasers of such securities.

62. Defendants made the untrue statements and omissions of material fact and engaged in the devices, schemes, artifices, transactions, acts, practices and courses of business described above.

63. By reason of the foregoing, Defendants have violated Section 17(a)(2) and (3) of the Securities Act [15 U.S.C. § 77q(a)(2)-(3)].

COUNT III

Violations of Section 10(b) of the Exchange Act, and Exchange Act Rule 10b-5

64. Paragraphs 1 through 55 are realleged and incorporated by reference.

65. As more fully described in paragraphs 1 through 55 above, Defendants, in connection with the purchase and sale of securities, by the use of the means and instrumentalities of interstate commerce and by the use of the mails, directly and indirectly: used and employed devices, schemes and artifices to defraud; made untrue statements of material fact and omitted to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; and engaged in acts, practices and courses of business which operated or would have operated as a fraud and deceit upon purchasers and sellers and prospective purchasers and sellers of securities.

66. Defendants knew, or were reckless in not knowing, of the facts and circumstances described in paragraphs 1 through 55 above.

67. By reason of the foregoing, Defendants violated 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].

RELIEF REQUESTED

WHEREFORE, the SEC respectfully requests that this Court:

I.

Issue findings of fact and conclusions of law that Defendants committed the violations charged and alleged herein.

II.

Enter a Temporary Restraining Order and Orders of Preliminary and Permanent Injunction restraining and enjoining Defendants, their officers, agents, servants, employees, attorneys and those persons in active concert or participation with Defendants who receive actual notice of the Order, by personal service or otherwise, and each of them from, directly or indirectly, engaging in the transactions, acts, practices or courses of business described above, or in conduct of similar purport and object, in violation of Section 17(a)(1), (2) and (3) of the Securities Act [15 U.S.C. § 77q(a)(1), (2) and (3)], Section 10(b) of the Exchange Act [15 U.S.C. § 78j(b)], and Rule 10b-5 [17 C.F.R. § 240.10b-5] thereunder.

III.

Issue an Order requiring Defendants to disgorge the ill-gotten gains received as a result of the violations alleged in this Complaint, including prejudgment interest.

IV.

With regard to the Defendants' violative acts, practices and courses of business set forth herein, issue an Order imposing upon Defendants appropriate civil penalties pursuant to Section 20(d) of the Securities Act [15 U.S.C. § 77t(d)] and Section 21(d)(3) of the Exchange Act [15 U.S.C. § 78u(d)(3)].

V.

Retain jurisdiction of this action in accordance with the principals of equity and the Federal Rules of Civil Procedure in order to implement and carry out the terms of all orders and decrees that may be entered or to entertain any suitable application or motion for additional relief within the jurisdiction of this Court.

VI.

Grant such other relief as this Court deems appropriate.

JURY DEMAND

Pursuant to Rule 38 of the Federal Rules of Civil Procedure, the Commission hereby requests a trial by jury.

Respectfully submitted,

s/Charles J. Kerstetter

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