

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

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UNITED STATES SECURITIES AND)	
EXCHANGE COMMISSION,)	
)	
Plaintiff,)	
)	
v.)	Civil Action No
)	
MINISH “JOE” HEDE and KEVIN)	
GRAETZ,)	
)	
Defendants.)	
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COMPLAINT

Plaintiff U.S. Securities and Exchange Commission (“SEC”) alleges as follows:

NATURE OF ACTION

1. The SEC brings this action against two former registered representatives, Minish “Joe” Hede (“Hede”) and Kevin Graetz (“Graetz”), for acting as unregistered brokers by engaging in a prohibited practice called “selling away.”

2. Instead of following investor-protection rules that required them to only sell securities to customers through the registered broker-dealer firm with which they were associated (the “Broker-Dealer Firm”), Hede and Graetz sold securities away from their firm. They concealed from their firm that they were offering and selling securities in the form of promissory notes issued by Belize Infrastructure Fund I, LLC (“Belize Fund”), they ignored the Broker-Dealer Firm’s policies that required them to only sell

investments approved by the firm; they sold Belize Fund notes to the Broker-Dealer Firm's customers while knowing that the Broker-Dealer Firm had declined to approve the investment; and they kept sales commissions on those transactions entirely for themselves.

3. By doing so, Hede and Graetz acted as unregistered brokers in violation of the federal securities laws.

4. Meanwhile, as revealed by the guilty plea to a criminal indictment of the Belize Fund's principal, Brent Borland ("Borland"), the Belize Fund investment turned out to be a sham. Customers of Hede's and Graetz's Broker-Dealer Firm who invested in the Belize Fund sham based on Hede's and Graetz's recommendations lost their entire investments. Twenty-one customers of Hede's and Graetz's firm invested in the Belize Fund notes through Hede and Graetz, collectively losing approximately \$9.6 million as a result.

5. For their parts, Hede and Graetz each received hundreds of thousands of dollars in illicit sales commissions for selling the approximately \$9.6 million worth of Belize Fund notes to customers of the Broker-Dealer Firm. In short, Hede and Graetz profited handsomely by improperly selling away from their firm, while the firm's customers suffered significant losses as a result of Hede's and Graetz's misconduct.

JURISDICTION AND VENUE

6. This Court has jurisdiction over this action pursuant to Section 27(a) of the Securities Exchange Act of 1934 ("Exchange Act") [15 U.S.C. § 78o(a)] and 28 U.S.C. § 1331.

7. Venue is proper in this Court pursuant to Section 27(a) of the Exchange Act [15 U.S.C. § 78o(a)] and 28 U.S.C. § 1391.

8. Acts, practices, and courses of business constituting violations alleged in this complaint have occurred within the jurisdiction of the United States District Court for the Southern District of New York. Both defendants offered and sold securities to investors from the Broker-Dealer Firm's branch office located in the Southern District of New York.

9. Defendants, 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 in this complaint. Defendants will, unless enjoined, continue to engage in the acts, practices, and courses of business set forth in this complaint and acts, practices, and courses of business of similar purport and object.

DEFENDANTS

10. **Minish "Joe" Hede**, age 49, lives in Rumson, New Jersey. Hede was formerly employed as a registered representative at the Broker-Dealer Firm from February 2013 until April 2017. He was terminated on April 28, 2017 for failing to cooperate with the Broker-Dealer Firm's investigation into allegations of selling away.

11. **Kevin Graetz**, age 53, lives in New Canaan, Connecticut. Graetz was formerly employed as a registered representative at the Broker-Dealer Firm from February 2013 until April 2017. He was terminated on April 28, 2017 for failing to cooperate with the Broker-Dealer Firm's investigation into allegations of selling away.

FACTS

The Rules Governing Sales Of Securities By Broker-Dealers And Their Registered Representatives

12. A broker-dealer firm is a firm that is in the business of buying and selling securities on behalf of its customers (as broker), for its own account (as dealer), or both. The registered sales personnel who work for brokers and/or dealers are known as registered representatives.

13. With few exceptions, the Exchange Act and SEC rules promulgated under the Exchange Act require brokers and/or dealers to register with the SEC. Section 3(a)(4)(A) of the Exchange Act defines a “broker” broadly as “any person engaged in the business of effecting transactions in securities for the account of others.”

14. SEC rules also require brokers and/or dealers to register with the Financial Industry Regulatory Authority, known as “FINRA.”

15. Working under the supervision of the SEC, FINRA is a self-regulatory organization that oversees all broker-dealer firms and registered representatives in the United States.

16. As part of FINRA’s efforts to safeguard the investing public against fraud and improper sales practices, FINRA writes and enforces rules and regulations for United States broker-dealers and registered representatives.

17. Individual registered representatives must register with FINRA, pass a qualifying examination, and be licensed by a state securities regulator before they can do business with customers.

18. FINRA rules require individual registered representatives to sell all securities to customers through the FINRA member firm with whom they are associated, unless the registered representative first has provided the firm with required notice of a proposed transaction to be effected away from the firm and unless the firm then has authorized the transaction to take place away from the firm. FINRA has established these rules to enhance investor protection and deter and prevent fraud on members of the investing public.

The Broker-Dealer Firm Declines To Approve The Belize Fund Investment

19. While the Broker-Dealer Firm with which Hede and Graetz were associated was registered with both the SEC and FINRA as a broker and dealer, neither Hede nor Graetz were so registered.

20. Beginning at least as early as 2013, Borland approached a number of registered broker-dealers, including the Broker-Dealer Firm, about serving as placement agents for the Belize Fund, asserting that he would use proceeds raised from investors in the Belize Fund notes to construct an airport in the country of Belize.

21. Borland would go on to raise at \$21.9 million through the sale of Belize notes to investors in several states, including customers of the Broker-Dealer firm as well as other firms.

22. Graetz initially had introduced Borland to executives of the Broker-Dealer Firm.

23. Borland ultimately failed to provide the Broker-Dealer Firm with all of the information that the Broker-Dealer Firm required to approve the investment for offer and

sale to its customers. Accordingly, in approximately February 2014, the Broker-Dealer Firm declined to approve the Belize Fund notes for offer and sale to its customers, and the firm so informed its registered representatives, including Hede and Graetz.

24. As Hede and Graetz knew or reasonably should have known, the Broker-Dealer Firm's written policies prohibited its registered representatives from offering and selling any investment to the Broker-Dealer Firm's customers unless the Broker-Dealer Firm had approved the investment. Therefore, the Broker-Dealer Firm's written policies prohibited Hede and Graetz from offering and selling securities issued by the Belize Fund as an investment to the Broker-Dealer Firm's customers, as Hede and Graetz knew or reasonably should have known.

25. Further, as discussed above, FINRA rules required Hede and Graetz to sell all securities to customers through the Broker-Dealer Firm, unless Hede and Graetz first provided the firm with required notice of a proposed transaction to be effected away the firm and unless the firm then has authorized the transaction to take place away from the firm. Hede and Graetz knew or reasonably should have known about this rule. They never provided the Broker-Dealer Firm with notice that they intended to offer and sell the Belize Fund notes away from the firm, and the Broker-Dealer Firm never authorized them to do so. Accordingly, as Hede and Graetz knew or reasonably should have known, FINRA rules prohibited them from selling the Belize Fund notes away from the Broker-Dealer Firm.

Hede and Graetz Violate the Broker-Dealer Firm's Policies and FINRA's Rules By Selling The Belize Fund Investment Away From Their Firm

26. In violation of the Broker-Dealer Firm's policies and FINRA's rules, Hede and Graetz secretly began working with Borland at least as early as January of 2015 to sell the Belize Fund notes to customers of the Broker-Dealer Firm

27. The Belize Fund notes are securities.

28. Hede and Graetz raised at least \$9,610,000 for the Belize Fund by selling notes to at least 21 customers of the Broker-Dealer Firm.

29. Borland paid Hede and Graetz commissions on the Belize Fund securities they sold to the Broker-Dealer Firm's customers. Hede and Graetz each received hundreds of thousands of dollars in commissions by selling Belize Fund securities to the Broker-Dealer Firm's customers.

30. Hede and Graetz took steps to conceal their selling away activity from the Broker-Dealer Firm. Specifically, they used private, non-firm email addresses and cellular phones to communicate with customers about the Belize Fund. They instructed customers not to contact them at the Broker-Dealer Firm concerning the Belize Fund, and they did not use monies from customers' Broker-Dealer Firm accounts to fund customers' investments in the Belize Fund notes. Later, when the Broker-Dealer Firm confronted Hede and Graetz with evidence that they were offering and selling the Belize Fund notes to the Broker-Dealer Firm's customers, they falsely told the Broker-Dealer Firm that Borland was using their names to offer and sell the investment without their permission.

31. In December 2016, the Broker-Dealer Firm received a demand letter from one of its customers concerning his investment in Belize Fund notes. The customer advised the Broker-Dealer Firm that Hede and Graetz had urged him to invest in the Belize Fund notes.

32. The demand letter that the Broker-Dealer Firm received in December 2016 led it to open an internal investigation that ultimately led the Broker-Dealer Firm to terminate Hede's and Graetz's employment as registered representatives on April 28, 2017.

Borland Admits That The Belize Fund Was A Sham, And Investors Lose Their Money

33. In 2018, the United States Attorney for the Southern District of New York filed a Complaint and Indictment against Borland for conspiring to commit, and committing, securities fraud and wire fraud. *U.S. v. Borland*, Case No. 18-cr-00487 (the "Borland criminal case.") Simultaneously with the filing of the Borland criminal case, the SEC filed suit against Borland, the Belize Fund, and other defendants in this Court (*SEC v. Borland, et al.*, Case No. 18-cv-4352-PKC) (the "Borland SEC case").

34. The Borland criminal case and the Borland SEC case both alleged that Borland misappropriated millions of dollars of funds invested in the Belize Fund for Borland's own personal benefit, including payment of Borland's personal mortgage obligations, credit card bills, luxury automobiles, a beach club membership, and private school tuition for his children. The Borland criminal case and the Borland SEC case also alleged that while Borland represented to investors that the investments would be used to

construct an airport in Belize and would be secured by real property, the property purportedly serving as collateral was improperly pledged to multiple investors, and, in some cases, did not exist.

35. In February 2019, Borland pled guilty to the charges against him in the Borland criminal case.

36. Investors lost their investments in the Belize Fund notes as a result of Borland's fraud.

COUNT I

Violations of Section 15(a) of the Exchange Act [15 U.S.C. §78o(a)]

(Against Defendants Hede and Graetz)

37. Paragraphs 1 through 36 are alleged and incorporated by reference as though fully set forth herein.

38. The Defendants, directly or indirectly, by the use of the mails or the means or instrumentalities of interstate commerce, effected transactions in securities, namely, the Belize Fund notes, while the Defendants were not registered with the SEC as brokers..

39. By acting as unregistered brokers, the Defendants, 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)].

RELIEF REQUESTED

WHEREFORE, the SEC respectfully requests the Court find the Defendants committed the violations alleged, and:

Permanent Injunctive Relief

Issue a Permanent Injunction restraining and enjoining the Defendants from violating Section 15(a) of the Exchange Act.

Disgorgement and Prejudgment Interest

Issue an Order directing the Defendants to disgorge all ill-gotten gains received as a result of the acts and/or courses of conduct complained of herein, with prejudgment interest thereon.

Civil Money Penalties

Issue an Order directing the Defendants to pay civil money penalties pursuant to Section 21(d) of the Exchange Act.

Further Relief

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

Retention of Jurisdiction

Further, the SEC 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 SEC for additional relief within the jurisdiction of this Court.

Date: August 21, 2020

Respectfully submitted

UNITED STATES SECURITIES AND
EXCHANGE COMMISSION

/s/ Eric M. Phillips

Eric M. Phillips, Ill. Bar. No. 6237871
(motion for admission *pro hac vice* pending)

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