

IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS DALLAS DIVISION

Michael J. Quilling, Receiver for Hammersmith Trust, LLC, Hammersmith Trust, Ltd., Microfund, LLC, and Bridgeport Alliance, LLC,

Plaintiff,

VS.

Adam Shaw, Thomas R. Smith,
Linda J. Smith, Michael Klein,
Leon Hurst, Summit Marketing, Inc.,
Bancorp Mortgage, Inc., Caton &
Associates, Inc., Simplified
Communications, Inc., Chatham
International, Inc., Thomas McCrimmon
United Holdings Corp., Greg Skibbee,
Rick Shirrell, Jeffrey A. Matz,
Christopher J. Carlson, Murray
Stucker and Larry K. Lewis,

Defendants.

CIVIL ACTION NO. 3-00CV1405-R

(Jury Trial Demanded)

DEFENDANT CHRISTOPHER J. CARLSON'S ORIGINAL ANSWER

*യ*തതതതതതതതതതതതതതതതതതതതതത

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, Christopher J. Carlson, Defendant in the above-entitled and numbered cause, and pursuant to Rule 12 of the Federal Rules of Civil Procedure, files this his Original Answer and responds to the correspondingly numbered paragraphs of Plaintiff's Complaint as follows:

Parties

- 1. In response to the allegations contained in paragraph one, Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations contained in said paragraph, and on that basis denies each and every allegation contained therein.
- 2. In response to the allegations contained in paragraph two, Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations contained in said paragraph, and on that basis denies each and every allegation contained therein.

- 3. In response to the allegations contained in paragraph three, Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations contained in said paragraph, and on that basis denies each and every allegation contained therein.
- 4. In response to the allegations contained in paragraph four, Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations contained in said paragraph, and on that basis denies each and every allegation contained therein.
- 5. In response to the allegations contained in paragraph five, Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations contained in said paragraph, and on that basis denies each and every allegation contained therein.
- 6. In response to the allegations contained in paragraph six, Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations contained in said paragraph, and on that basis denies each and every allegation contained therein.
- 7. In response to the allegations contained in paragraph seven, Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations contained in said paragraph, and on that basis denies each and every allegation contained therein.
- 8. In response to the allegations contained in paragraph eight, Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations contained in said paragraph, and on that basis denies each and every allegation contained therein.
- 9. In response to the allegations contained in paragraph nine, Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations contained in said paragraph, and on that basis denies each and every allegation contained therein.
- 10. In response to the allegations contained in paragraph ten, Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations contained in said paragraph, and on that basis denies each and every allegation contained therein.
- 11. In response to the allegations contained in paragraph eleven, Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations contained in said paragraph, and on that basis denies each and every allegation contained therein.

- 12. In response to the allegations contained in paragraph twelve, Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations contained in said paragraph, and on that basis denies each and every allegation contained therein.
- 13. In response to the allegations contained in paragraph thirteen, Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations contained in said paragraph, and on that basis denies each and every allegation contained therein.
- 14. In response to the allegations contained in paragraph fourteen, Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations contained in said paragraph, and on that basis denies each and every allegation contained therein.
- 15. In response to the allegations contained in paragraph fifteen, Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations contained in said paragraph, and on that basis denies each and every allegation contained therein.
- 16. In response to the allegations contained in paragraph sixteen, Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations contained in said paragraph, and on that basis denies each and every allegation contained therein.
- 17. In response to the allegations contained in paragraph seventeen, Defendant admits all allegations therein.
- 18. In response to the allegations contained in paragraph eighteen, Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations contained in said paragraph, and on that basis denies each and every allegation contained therein.
- 19. In response to the allegations contained in paragraph nineteen, Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations contained in said paragraph, and on that basis denies each and every allegation contained therein.

Jurisdiction and Venue

20. In response to the allegations contained in paragraph twenty, Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations contained in said paragraph, and on that basis denies each and every allegation contained therein.

21. In response to the allegations contained in paragraph twenty-one, Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations contained in said paragraph, and on that basis denies each and every allegation contained therein.

Background Facts

- 22. In response to the allegations contained in paragraph twenty-two, Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations contained in said paragraph, and on that basis denies each and every allegation contained therein.
- 23. In response to the allegations contained in paragraph twenty-three, Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations contained in said paragraph, and on that basis denies each and every allegation contained therein.
- 24. In response to the allegations contained in paragraph twenty-four, Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations contained in said paragraph, and on that basis denies each and every allegation contained therein.
- 25. In response to the allegations contained in paragraph twenty-five, Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations contained in said paragraph, and on that basis denies each and every allegation contained therein.
- 26. In response to the allegations contained in paragraph twenty-six, Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations contained in said paragraph, and on that basis denies each and every allegation contained therein.
- 27. In response to the allegations contained in paragraph twenty-seven, Defendant denies that he received \$59,300.00 of investor proceeds, Defendant is without sufficient knowledge or information to form a belief as to the truth of the remaining allegations contained in said paragraph, and on that basis denies those allegations contained therein.

COUNT ONE

28. In response to the allegations contained in paragraph twenty-eight Defendant incorporates his answers to paragraphs 1 through 27 herein as if set forth at length.

- 29. In response to the allegations contained in paragraph twenty-nine, defendant denies that any funds he received were from the defrauded investors, Defendant is without sufficient knowledge or information to form a belief as to the truth of the remaining allegations contained in said paragraph, and on that basis denies those allegations contained therein.
- 30. In response to the allegations contained in paragraph thirty, Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations contained in said paragraph, and on that basis denies each and every allegation contained therein.

COUNT TWO

- 31. In response to the allegations contained in paragraph thirty-one Defendant incorporates his answers to paragraphs 1 through 27 herein as if set forth at length.
- 32. In response to the allegations contained in paragraph thirty-two, Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations contained in said paragraph, and on that basis denies each and every allegation contained therein.
- 33. In response to the allegations contained in paragraph thirty-three, Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations contained in said paragraph, and on that basis denies each and every allegation contained therein.
- 34. In response to the allegations contained in paragraph thirty-four, Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations contained in said paragraph, and on that basis denies each and every allegation contained therein.

COUNT THREE

- 35. In response to the allegations contained in paragraph thirty-five Defendant incorporates his answers to paragraphs 1 through 27 herein as if set forth at length.
- 36. In response to the allegations contained in paragraph thirty-six, Defendant denies that any conduct in locating, soliciting and selling the program to lenders/investors constitutes aiding and abetting of corporate waste, Defendant is without sufficient knowledge or information to form a belief as to the truth of the remaining allegations contained in said paragraph, and on that basis denies those allegations contained therein.

37. In response to the allegations contained in paragraph thirty-seven, Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations contained in said paragraph, and on that basis denies each and every allegation contained therein.

COUNT FOUR

- 38. In response to the allegations contained in paragraph thirty-eight Defendant incorporates his answers to paragraphs 1 through 27 herein as if set forth at length.
- 39. In response to the allegations contained in paragraph thirty-seven, Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations contained in said paragraph, and on that basis denies each and every allegation contained therein.

DEFENDANT'S FIRST AFFIRMATIVE DEFENSE

40. The complaint, and each purported cause of action contained therein, fails to state facts sufficient to constitute a cause of action against this answering Defendant.

DEFENDANT'S SECOND AFFIRMATIVE DEFENSE

41. Plaintiff is barred from recovering all or part of the amounts it seeks as damages in the Complaint, and the performance, if any, required by Defendants, is excused under the doctrine of equitable estoppel.

DEFENDANT'S THIRD AFFIRMATIVE DEFENSE

42. Plaintiff, by its conduct, has waived any and all rights against Defendants which it may have had to recover the damages it seeks.

WHEREFORE, PREMISES CONSIDERED, Defendant, Christopher J. Carlson, prays:

- 1. That Plaintiff's complaint and claims therein be dismissed with prejudice and that Plaintiff take nothing thereby;
- 2. That judgment be rendered against Plaintiff and in favor of Defendant for costs of suit incurred herein;
 - 3. That Defendant recover his reasonable and necessary attorneys' fees; and
 - 4. For such other and further relief as this court may deem just and proper.

DATED: December 1, 2000

Respectfully submitted,

RONALD G. GRAY

Texas State Bar No. 08328600

GEARY, PORTER & DONOVAN, P.C.

One Bent Tree Tower

16475 Dallas Parkway, Suite 500

Addison, Texas 75001-6837

972/931-9901

972/931-9208 (fax)

ATTORNEYS FOR DEFENDANT CHRISTOPHER J. CARLSON

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing Defendant Christopher

J. Carlson's Original Answer was served upon attorney of record for Plaintiff on this the __/s +___

day of December 2000, in accordance with the Federal Rules of Civil Procedure:

Michael J. Quilling

Quilling, Selander, Cummiskey & Lownds, P.C.

2001 Bryan Street, Suite 1800

Dallas, Texas 75201