

STATE OF MAINE  
KENNEBEC, ss

SUPERIOR COURT  
CIVIL ACTION  
CONSOLIDATED DOCKET NOS. CV-96-134  
CV-97-059

STATE OF MAINE, *et al.*, )  
)  
Plaintiffs, )  
)  
v. )  
)  
HER, INC., *et al.*, )  
)  
Defendants. )

CONSENT AGREEMENT  
AND ORDER

REC'D & FILED  
Nancy A. Desjardin  
MAR 22 2000  
Clerk of Courts  
Kennebec County

The Plaintiffs, State of Maine and Securities Administrator (collectively, the "State") and Defendants Donald Shields and Fort Hill Financial, Inc. (collectively "Defendants ") enter into the following consent agreement and order ("consent agreement") before the taking of any testimony, and without trial or adjudication of any issue of fact or law:

AGREEMENT

1. On March 26, 1996, the State filed the Complaint in the above-captioned matter, and on March 26, 1997, the State filed the Amended Complaint in the above-captioned matter, alleging that Donald Shields and Fort Hill Financial, Inc. had violated the Revised Maine Securities Act, 32 M.R.S.A. §§ 10101-10713.

2. The Defendants neither admit nor deny the allegations of the Complaint or the Amended Complaint.

3. Defendant Shields agrees to cooperate in the State's ongoing investigation and litigation in this matter concerning the actions of others, including providing complete and truthful testimony in any administrative or court proceedings. The State acknowledges that such complete and truthful testimony may not necessarily be favorable to legal or factual positions

advocated by the State, and Shields acknowledges that he may be subject to additional sanctions, including criminal sanctions, if such testimony is not complete and truthful. The State acknowledges that Shields has cooperated in the State's investigation, and has provided assistance in that investigation, and in entering into this consent agreement the State has taken into consideration this cooperation and assistance.

6. The Defendants and the State (collectively, the "parties") waive the entry of findings of fact and conclusions of law pursuant to Rule 52 of the Maine Rules of Civil Procedure, and the right of appeal, if any, from entry of final judgment in this matter.

7. The terms and conditions contained in this consent agreement constitute the complete agreement between the parties, and the parties confirm that in entering into this agreement, they have not relied on any representations, promises, or understandings other than those expressed in this agreement.

### ORDER

Based upon the foregoing agreement, the court orders, adjudges, and decrees as follows:

1. Donald Shields is permanently enjoined from violating the Revised Maine Securities Act, including selling unregistered securities in violation of 32 M.R.S.A. § 10401, acting as an unlicensed sales representative in violation of 32 M.R.S.A. § 10301, and engaging in fraudulent and other prohibited practices in the offer and sale of securities in violation of 32 M.R.S.A. § 10201.

2. Donald Shields is permanently barred from any association, except as a retail consumer of brokerage services, with any broker-dealer, investment advisor, or issuer doing business in this State.

3. Donald Shields is ordered to cooperate with the State in its ongoing investigation and litigation in this matter concerning the actions of others, including providing complete and truthful testimony in any administrative or court proceeding.

4. If Donald Shields fails to comply with any provision of this consent agreement, or if any provision of this consent agreement is voided, vacated, discharged, or declared null and void, the State, at its sole and unreviewable discretion, may declare this entire consent agreement null and void.

5. Fort Hill Financial, Inc., its officers, agents, servants, employees, attorneys and those in active concert or participation with Fort Hill Financial, Inc., with actual notice of this injunction, are permanently enjoined from violating the Revised Maine Securities Act, including selling unregistered securities, in violation of 32 M.R.S.A. § 10401, acting as an unlicensed broker-dealer, in violation of 32 M.R.S.A. § 10301, and engaging in fraudulent and other prohibited practices in the offer and sale of securities, in violation of 32 M.R.S.A. § 10201.

6. This court shall retain jurisdiction over this matter.

Dated: 3-22-00



Justice, Superior Court

We hereby consent to the entry of this order:

Dated: March 20, 2000

Linda J. Conti

LINDA J. CONTI  
Assistant Attorney General  
Maine Bar No. 3436  
6 State House Station  
Augusta, Maine 04333-0006  
(207) 626-8800

Attorney for Plaintiffs

Dated:

3/14/00



DONALD SHIELDS

Director, Fort Hill Financial, Inc.

STATE OF MAINE  
KENNEBEC, SS.

SUPERIOR COURT  
CIVIL ACTION  
DOCKET NO. CV-96-134

STATE OF MAINE and )  
SECURITIES ADMINISTRATOR, )  
 )  
Plaintiffs )  
 )  
v. )  
 )  
HER, INC., et al., )  
 )  
Defendants )

ORDER GRANTING  
PRELIMINARY  
INJUNCTION

A TRUE COPY

ATTEST:

*Nancy A. Desjardin*  
Nancy A. Desjardin  
Clerk of Courts

This matter came to be heard on plaintiffs' complaint requesting preliminary injunction; and due notice having been given to defendants; and the Court having considered the testimony and exhibits presented by the parties and having considered the arguments of counsel;

It is found that the preliminary injunction should be issued for the reasons set forth in plaintiffs' complaint and memorandum in support of plaintiffs' motion for preliminary injunction, to wit, that defendants have violated and are continuing to violate 32 M.R.S.A. § 10401 through the sale of unregistered securities which results in injury to the plaintiffs and the public as set forth in the plaintiffs' complaint.

Therefore, on plaintiffs' motion, it is ordered that the defendants HER, Inc., Steven Hall, David Hall and Paul Richard are hereby enjoined from selling unregistered securities. The defendants are further ordered within 10 calendar days of the date of this order to provide an accounting identifying the following:

- A. the amounts, location and nature of all of the proceeds of all sales of notes or other evidences of indebtedness issued by HER, Inc. and/or by Paul Richard (and all assets derived from those proceeds; and
- B. by name, address and telephone number, all known investors in notes or other evidences of indebtedness issued by HER, Inc. and/or Paul Richard, the date upon which each investment was made, the amount invested by each investor and the total amount of principal owed to each investor.

This order is effective forthwith and is issued without the requirement of security which is waived pursuant to 32 M.R.S.A. § 10603(3).

Dated: May 31, 1996

  
Justice, Superior Court

SUPERIOR COURT  
CIVIL ACTION  
DOCKET NO. CV-97-059

Defendants.

## PRELIMINARY INJUNCTION ORDER

2. Defendants Petit Corporations are preliminarily enjoined from selling unregistered securities in violation of 32 M.R.S.A. § 10401, from acting as unlicensed broker-dealers in violation of 32 M.R.S.A. § 10301(1), from employing unlicensed



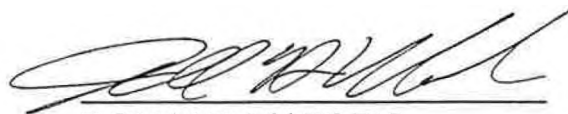
sales representatives in violation of 32 M.R.S.A. § 10301(2), and from engaging in fraudulent and other prohibited practices in the offer and sale of securities in violation of 32 M.R.S.A. § 10201.

3. Defendants Catherine Petit and Petit Corporations are each ordered, within 10 calendar days of the date of this order, to provide an accounting, identifying the following:

a. the amounts, location and nature of all of the proceeds (including the disposition of all of the proceeds and all assets derived from those proceeds) of all sales of securities, including all promissory notes or other evidences of indebtedness; and

b. by name, address and telephone number, all known investors in the sales of securities, including all promissory notes or other evidences of indebtedness, the date upon which each investment was made, the amount invested by each investor, and the total amount of principal owed to each investor.

Dated: 10-30-87



DONALD MARDEN  
Justice, Superior Court

SUPERIOR COURT  
CIVIL ACTION  
CONSOLIDATED DOCKET NOS. CV-96-134  
CV-97-059

Plaintiff

v.

## Defendants

PLAINTIFFS' MOTION TO  
DISMISS WITH INCORPORATED  
MEMORANDUM OF LAW

## FACTS

On May 4, 2001, the court entered partial summary judgment in favor of the Plaintiffs against Defendant Paul Richard on counts 1 and 4 of the second amended complaint, and against Defendant Catherine Petit on count 4 of the second amended complaint. The State is requesting that this court dismiss counts 2 and 3 which are pending against Paul Richard, counts 1-3 which are pending against Catherine Petit and all counts pending against Old Orchard Pier Company, Whiteway Amusements, Whiteway Amusements, Inc., Old Orchard Beach Pier Company, CDP, Inc., Whiteway Amusement Co., and Old Orchard Ocean Pier Company, Inc. (hereinafter “Petit Corporations”).

Pursuant to M.R.Civ.P. 41(a)(2), after an answer has been served, an action may be dismissed at plaintiff's insistence only upon order of the court and upon such terms and conditions as the court deems just and proper.

Because the court has previously entered summary judgment against Richard on counts 1 and 4 of the complaint and against Petit on count 4 and because they are presently incarcerated as a result of criminal convictions that were entered against them for the same conduct as alleged in the complaint, it is proper to dismiss the remaining pending claims in the civil complaint. In addition, because judgment has been rendered against Petit individually, the State no longer needs to pursue the now defunct Petit corporations. Further litigation on these remaining claims is not a proper use of resources, as any relief would merely be duplicative.

### CONCLUSION

FOR THESE REASONS, the State requests that the court enter an order dismissing the remaining claims in the complaint and enter a final judgment in this case.

Respectfully submitted,

G. STEVEN ROWE  
Attorney General

Dated: June 22, 2001



LINDA J. CONTI – Me. Bar No. 3638  
Assistant Attorney General  
Department of the Attorney General  
State House Station 6  
Augusta, Maine 04333-0006  
(207) 626-8800

SUPERIOR COURT  
CIVIL ACTION  
CONSOLIDATED DOCKET NOS. CV-96-134  
CV-97-059

## Defendants

**STATEMENT OF  
MATERIAL FACTS  
M. R. CIV. P. 56 (h)**

1. Paul B. Richard sold unregistered securities. Order granting motion for preliminary injunction dated May 31, 1996 ¶¶ 2. Exhibits 10, 12 and 14 admitted at the hearing on the motion for preliminary injunction on May 2, 1996. Sylvia Paine's affidavit admitted as exhibit 8 at the hearing on motion for stay pending appeal dated April 18, 1997, ¶¶ 19, 20, 28, 29 and 30. Paul Richard's accounting dated January 19, 1998.
2. Paul B. Richard engaged in fraud, made untrue statements and material omissions, and engaged in deceptive practices in connection with the offer and sale of securities. Indictment in United States v. Catherine Duffy Petit, et al. Criminal No. 97-55-P-H, United States District Court for the District of Maine ¶¶ 15, 16, and 31. An attested copy of the indictment is attached hereto as Exhibit A. Criminal judgment in United States v. Paul Richard, dated 6-18-99, page 1, an attested copy of which is attached hereto as Exhibit B.
3. Litigation Resources is a Delaware limited liability company formed by Paul B. Richard. Exhibits 5 and 10 admitted at the hearing on motion for preliminary injunction on October 10, 1997.

3.       Litigation Resources, LLC sold unregistered securities in violation of 32 M.R.S.A. § 10401. Order granting preliminary injunction dated October 23, 1997 page 1 ¶¶ 1 and 2. Affidavit of Judith Dorsey dated October 9, 1997 and submitted to the court on October 10, 1997 ( hereinafter "Dorsey affidavit") ¶¶ 6 and 10. Testimony of Albert Pratt at the hearing on motion for preliminary injunction on October 10, 1997 page 23 lines 15-24, page 24 lines 11-14, page 28 lines 2-7, 16 and 20, page 31 lines 13-25, page 32 lines 19-25, page 33 line 1, page 34 lines 12-18, and exhibits 7 through 10 admitted at that hearing. The transcript of Albert Pratt's testimony is attached hereto as Exhibit C.

4.       Litigation Resources, LLC acted as an unlicensed broker dealer in violation of 32 M.R.S.A. § 10301(1). Order granting preliminary injunction dated October 23, 1997 page 1 ¶¶ 1 and 2. Dorsey affidavit ¶ 10. Exhibits 7 through 10 admitted at the hearing on motion for preliminary injunction on October 10, 1997.

5.       Steven Hall was not licensed as a sales representative to sell securities on behalf of Litigation Resources LLC. Dorsey affidavit ¶ 9.

6.       Steven Hall acted as a sales representative for Litigation Resources, LLC. Exhibit C page 23 lines 15-24, page 24 lines 11-14, page 28 lines 2-7, 16 and 20, page 31 lines 13-25, page 32 lines 19-25, page 33 line 1 and page 34 lines 12-18.

7.       Litigation Resources, LLC engaged in fraud in connection with the offer and sale of securities in violation of 32 M.R.S.A. § 10201. Order granting preliminary injunction dated October 23, 1997 page 1 ¶¶ 1 and 2.

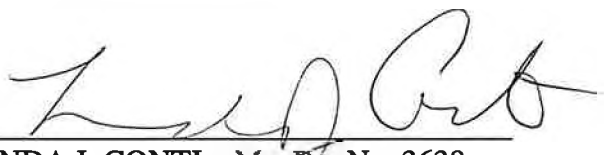
8.       Catherine D. Petit engaged in fraud, made untrue statements and material omissions, and engaged in deceptive practices in connection with the sale of securities. Exhibit A

¶¶ 15, 16 and 31. Criminal judgment in United States v. Catherine Duffy Petit, dated 6-18-99,  
page 1, an attested copy of which is attached hereto as Exhibit D.

Respectfully submitted,

G. STEVEN ROWE  
ATTORNEY GENERAL

Dated: March 26, 2001



---

LINDA J. CONTI - Me. Bar No. 3638  
Assistant Attorney General  
Department of the Attorney General  
State House Station 6  
Augusta, Maine 04333-0006  
(207) 626-8800

SUPERIOR COURT  
CIVIL ACTION  
CONSOLIDATED DOCKET NOS. CV-96-134  
CV-97-059

STATES' MEMORANDUM OF LAW  
IN SUPPORT OF MOTION FOR  
SUMMARY JUDGMENT

Specifically, the State seeks judgment against Richard on Count I of the second amended complaint for selling unregistered securities in violation of 32 M.R.S.A. § 10401 and Count IV of the second amended complaint for engaging in fraud in connection with the sale of securities in violation of 32 M.R.S.A. § 10201. The State seeks judgment against Petit on Count IV of the second amended complaint for engaging in fraud in connection with the sale of securities in violation of 32 M.R.S.A. § 10201. Finally, the State seeks judgment against Litigation Resources on Count I for selling unregistered securities in violation of 32 M.R.S.A. § 10401, on Count II

for acting as an unlicensed broker dealer in violation of 32 M.R.S.A. § 10301(1), on Count III for employing unlicensed sale representatives in violation of 32 M.R.S.A. § 10301(2) and Count IV for engaging in fraud in connection with the sale of securities in violation of 32 M.R.S.A. § 10201.

Pursuant to 32 M.R.S.A. § 10603, the State also requests that upon finding that the defendants violated the Revised Maine Securities Act, the Court issue an injunction enjoining them from further violations.

### **PROCEDURAL HISTORY AND FACTS**

In March of 1996, the State commenced this lawsuit against Defendants H.E.R., Inc., Paul Richard, Steven Hall, and David Hall, alleging that they sold unregistered securities and that they engaged in fraudulent conduct in connection with the sale of those securities in violation of the Revised Maine Securities Act (the "Act"). The State sought injunctive relief, restitution for investors and civil penalties. In May of 1996, the Superior Court (Atwood, J.) after an evidentiary hearing found that these defendants had sold unregistered securities and issued a preliminary injunction enjoining them from selling unregistered securities. Order dated May 31, 1996.

After the preliminary injunction was issued, the State continued to investigate H.E.R., Inc. and the other named defendants and learned that the sale of promissory notes issued by H.E.R., Inc. and Paul Richard was part of a much larger scheme of selling unregistered securities to fund a lawsuit brought by Petit against Key Bank.

In March of 1997, the State moved and was granted leave to amend its complaint to name as defendants various individuals, Thomas Blackburn, James Erskine, Roland Morin, Donald Shields, and Armand Pelletier, and various corporations, Litigation Resources, Fort Hill



Financial, Inc., and Capital Placement Services Corporation all of which sold investments in the Petit litigation.

In March of 1997, the State filed a separate complaint based on the same facts against Petit. In October 1997, the two cases were consolidated.<sup>1</sup> Also in October 1997, after hearing, the court issued a permanent injunction against Litigation Resources, L.L.C., enjoining it from violating the Act. Order dated October 23, 1997.

On November 4, 1997, a federal grand jury indicted Petit, Richard, Steven Hall, David Hall and Roland Morin for various criminal offenses in connection with the fraudulent scheme to sell securities, including criminal securities fraud. A copy of the indictment is attached hereto as Exhibit A. As a result of the indictment, in March of 1998 the scheduling order in this case was amended to provide that a pretrial conference would take place later in 1998 following the resolution of the criminal case. This scheduling was further delayed, as the criminal trial in federal court did not take place until 1999.

Following the criminal trial, Defendants Petit and Richard were found guilty of, among other things, securities fraud. Copies of the criminal judgments are attached hereto as Exhibits B and D. In June of 1999, Petit and Richard were sentenced. They appealed their convictions and on December 18, 2000, the United States Court of Appeals for the First Circuit denied their appeal and upheld the convictions. Copies of the decisions are attached hereto as Exhibit E.

---

<sup>1</sup> On December 9, 1997, State was granted leave to amend the complaint a second time, to add Gordon Paine as a defendant.

## **ARGUMENT**

### **Standard.**

Summary Judgment is appropriate when the record shows that there is no genuine issue as to any material fact and that the moving party is entitled to summary judgment as a matter of law. See M.R. Civ. P. 56(c). The State submits that the record demonstrates that there are no genuine issues of material fact and that it is entitled to a judgment as a matter of law against the defendants as set forth below.

The state seeks summary judgment based on evidence adduced in three previous proceedings. First, this court has already found that Richard sold securities in violation of 32 M.R.S.A. § 10401 after hearing in May of 1996. Second Petit and Richard were found guilty of criminal securities fraud in federal district court and are therefore estopped from arguing that their conduct does not violate the civil securities provisions of 32 M.R.S.A. § 10201. Finally there is uncontested evidence submitted at the hearing on the motion for preliminary injunction against Litigation Resources on October 10, 1997 that demonstrates that Litigation Resources violated the Revised Maine Securities Act.

### **Richard Sold Unregistered Securities in Violation of 32 M.R.S.A. § 10401.**

Following a hearing, the Superior Court (Atwood, J.) found that Richard had sold unregistered securities in violation of 32 M.R.S.A. § 10401. The order states "It is found...that defendants have violated and continue to violate 32 M.R.S.A. § 10401 through the sale of unregistered securities..." Order granting Motion for Preliminary Injunction, dated May 31, 1996 ¶2. This finding by the court supports the entry of a judgment against Richard on count I of the complaint.

In addition evidence has been admitted into the record that shows that following the issuance of the preliminary injunction, Richard continued to sell unregistered securities. Richard sold unregistered securities to Sylvia Paine and her husband between October 1994 and August 1996. Affidavit of Sylvia Paine (hereinafter "Paine affidavit") admitted at a hearing on motion for stay pending appeal on April 18, 1997 ¶19, ¶20, ¶28, ¶29 and ¶30; Affidavit of Judith Dorsey (hereinafter "Dorsey affidavit") admitted on October 10, 1997 ¶5. Finally Richard has admitted to raising money through the sale of promissory notes. Richard's accounting submitted to the Court in January 1998.

The evidence shows that Richard sold unregistered securities. Because there is no genuine issue as to any material fact regarding Richard's sale of unregistered securities the court should enter judgment against Richard on Count I of the complaint and issue a permanent injunction enjoining him from selling unregistered securities.

**Paul Richard and Catherine Petit Engaged in Fraud in Connection with the Sale of Securities in Violation of 32 M.R.S.A. § 10201.**

Count IV of the complaint alleges that Petit and Richard engaged in securities fraud in violation of 32 M.R.S.A. § 10201. 32 M.R.S.A. § 10201 provides:

“In connection with the offer, sale or purchase of any security, a person shall not, directly or indirectly:

- (1)**Fraud.** employ any device, scheme or artifice to defraud;
- (2)**Untrue Statements, Material Omissions.** make any untrue statement of a material fact or omit the stated material fact necessary in order to make the statements made in the light of the circumstances under which they are made, not misleading; or
- (3)**Deceptive Practices.** engage in any act, practice or course of business that operates or would operate as a fraud or deceit upon any person.”

In November of 1997, Petit and Richard were indicted in Federal District Court for criminal violations of 15 U.S.C. § 77(q). 15 U.S.C. § 77(q) provides:

“(a) Use of interstate commerce for purpose of fraud or deceit.

It shall be unlawful for any person in the offer or sale of any securities by the use of any means or instruments of transportation or communication in interstate commerce or by use of the mails, directly or indirectly—(1) to employ any device, scheme, or artifice to defraud, or (2) to obtain money or property by means of any untrue statement of a material fact or any omission to state a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading, or (3) to engage in any transaction, practice or course of business in operates or would operate as a fraud or deceit upon the purchaser.”

In June of 1999, Catherine Petit and Paul Richard were convicted of criminal securities fraud in violation of 15 U.S.C. § 77(q). Exhibits A, B and D. In December of 2000, the United States Court of Appeals for the First Circuit upheld these convictions. Exhibit E.

It is well established that a prior criminal conviction may work in an estoppel in favor of the government in a subsequent civil proceeding. Securities and Exchange Commission v. Everest Management Corporation, 466 F.Supp. 167, 172 (S.D.N.Y. 1979). Offensive collateral estoppel is permitted on a case-by-case basis if it serves the interest of justice and the identical issue was determined by a prior final judgment, and the parties estopped had a fair opportunity and incentive to litigate the issue in the prior proceeding. Van Houten v. Harco Const., Inc., 655 A.2d 331 (Me 1995).

Comparing 32 M.R.S.A. § 10201 with 15 U.S.C. § 77(q) shows that the legal issue in the criminal case was the same as the legal issue alleged in count IV of the second amended complaint. In addition, the facts described in the second amended complaint describe the same fraudulent scenario as do the facts set forth in the indictment. Petit and Richard had court

appointed lawyers and a jury trial on the criminal charges in federal district court which afforded them a full and fair opportunity and incentive to litigate. Because of the higher standard of proof and numerous safeguards surrounding a criminal trial their convictions for criminal securities fraud bar Petit and Richard from relitigating the same issue in this case. Therefore the State is entitled to a judgment as a matter of law and a permanent injunction against Petit and Richard on Count IV of the second amended complaint.

**Litigation Resources, L.L.C.**

Litigation Resources is a Delaware limited liability corporation formed by Richard. Exhibits 5 and 10 admitted at the hearing on motion for preliminary injunction on October 10, 1997. The State filed a motion for preliminary injunction against Litigation Resources. Litigation Resources did not contest the evidence submitted to the court in support of the motion. Order dated October 23, 1997 ¶ 1. Nonetheless on October 10, 1997, a hearing was held at which testimony was taken and exhibits admitted. Following the hearing court issued a preliminary injunction finding that the state had demonstrated likelihood of success on the merits and enjoining Litigation Resources from violating provisions of the Revised Maine Securities Act. The State submits that the testimony and exhibits admitted at the hearing on October 10, 1997 demonstrate that the State is entitled to judgment in its favor against Litigation Resources on all of the Counts in the Complaint.

On October 10, 1997, Albert Pratt testified that he met with Steven Hall, Petit and Richard who solicited and sold him a promissory note issued by Litigation Resources for the purpose of funding Petit's Key Bank litigation. Exhibit C page 23 lines 15-24, page 24 lines 11-14, page 28 lines 2-7, 16 and 20, page 31 lines 13-25, page 33 line 1 and page 34 lines 12-18 and exhibits 7 through 10 admitted at the October 10, 1997 hearing on the motion for preliminary

injunction. Litigation Resources acted as an unlicensed broker-dealer and employed unlicensed sales representatives. Dorsey affidavit ¶¶ 8 through 10. The notes sold by Litigation Resources and through its agents are unregistered securities. Dorsey affidavit ¶ 5. Evidence submitted at a hearing on a motion for preliminary injunction becomes part of the record and need not be repeated at trial. M.R.Civ. P. 65(2). This evidence demonstrates that Litigation Resources violated the Revised Maine Securities Act and the State is entitled to summary judgment in its favor against Litigation Resources.

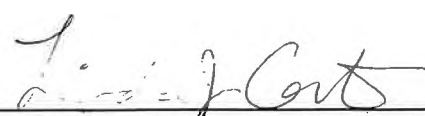
### CONCLUSION

For the reasons set forth above and demonstrated in the attached Statement of Material Facts with citations to the record, the State requests that judgment be entered in its favor against Defendant Paul Richard on Counts I and IV of the second amended complaint, against Catherine Petit on Count IV of the second amended complaint and against Litigation Resources, L.L.C. on Counts I through IV of the second amended complaint.

Respectfully submitted,

G. STEVEN ROWE  
Attorney General

Dated: March 26, 2001

  
\_\_\_\_\_  
LINDA J. CONTI – Me. Bar No. 3638  
Assistant Attorney General  
Department of the Attorney General  
State House Station 6  
Augusta, Maine 04333-0006  
(207) 626-8800

**SUPERIOR COURT  
CIVIL ACTION  
CONSOLIDATED DOCKET NOS. CV-96-134  
CV-97-059**

Defendants.

## PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT


In support of this motion the State asserts that there are no genuine issues as to any material fact and that the State is entitled to judgment as a matter of law on these counts. M.R. Civ. P. 56(c). The State requests that the court find Defendants Paul B. Richard, Catherine D.

Petit, and Litigation Resources LLC violated the Revised Maine Securities Act and enjoin them from further violations of the Act.

Respectfully submitted,

G. STEVEN ROWE  
ATTORNEY GENERAL

Dated: March 26, 2001



---

LINDA J. CONTI – Me. Bar No. 3638  
Assistant Attorney General  
Department of the Attorney General  
State House Station 6  
Augusta, Maine 04333-0006  
(207) 626-8800

#### NOTICE

**Matter in opposition to this motion must be filed not later than 21 days after the filing of the motion unless another time is provided by the Maine Rules of Civil Procedure or the court. Failure to file a timely opposition will be deemed a waiver of all objections to the motion, which may be granted without further notice or hearing. See M.R. Civ. P. Rule 7(b)(1).**



STATE OF MAINE  
KENNEBEC, SS.

SUPERIOR COURT  
CIVIL ACTION  
DOCKET NO. *CV 96-134*

RECD & FILED  
NANCY A. DESJARDIN

MAR 26 1996

STATE OF MAINE and  
SECURITIES ADMINISTRATOR, )  
Plaintiffs, )  
KENNEBEC COUNTY )

v. )

HER, INC., STEVEN A. HALL, DAVID )  
J. HALL AND PAUL RICHARD, )

Defendants. )

COMPLAINT

A TRUE COPY

TEST:

*Nancy A. Desjardin*  
Nancy A. Desjardin  
Clerk of Courts

INTRODUCTION

The State of Maine and Securities Administrator (collectively the "State") bring this action against HER, Inc., Steven A. Hall, David J. Hall and Paul Richard (collectively the "defendants"), for violations of the Revised Maine Securities Act (the "Act"), 32 M.R.S.A. §§10101-10710 (1988 and Supp. 1995), in that the defendants offered and sold securities in Maine that were not registered nor exempt from registration. Further, in selling the unregistered securities, defendants Steven A. Hall and David J. Hall made untrue statements and omitted material facts necessary in order to make statements made by them not misleading. The complaint seeks injunctive relief, civil penalties, restitution for investors, an accounting of monies received from investors and the appointment of a receiver to manage the affairs of HER, Inc.

## JURISDICTION

This Court has jurisdiction pursuant to 4 M.R.S.A. §105 (1989). This Court has jurisdiction under the Revised Maine Securities Act, 32 M.R.S.A. §§10602-10603 (1988 and Supp. 1995).

## PARTIES

1. Plaintiff State of Maine is a sovereign state. Plaintiff Securities Administrator is responsible for administering and enforcing the Revised Maine Securities Act. The plaintiffs bring this action by and through the Attorney General, Andrew Ketterer, pursuant to 32 M.R.S.A. §10602(1)(D) (Supp. 1995) and the powers vested in him by 5 M.R.S.A. §191 (1989) and the common law as the State's chief law enforcement officer.

2. HER, Inc., was, at all times material herein, a Maine corporation with a place of business located at P.O. Box 291, Old Orchard Beach, Maine 04064. HER, Inc., was formed to purchase real estate at depressed value, rehabilitate or complete construction on the real estate and sell it at a profit. HER, Inc., was also formed to invest in small manufacturing enterprises. As explained to prospective investors, HER, Inc., intended to benefit from the experience of Paul Richard in real estate ventures.

3. The initial capital for HER, Inc., was provided by its three owners, Steven A. Hall, James Erskine and Paul Richard. Subsequent capital was raised through the sale of notes to Maine investors.

4. Steven A. Hall resides at 5 Pioneer Lane, Cumberland, Maine 04084, and was, at all times material herein, the president and sole member of the Board of Directors of HER, Inc.

5. Paul Richard resides at 50 Mark Street, Lewiston, Maine 04240, and was, at all times material herein, the treasurer of HER, Inc.

6. David J. Hall resides at 330 Milt Brown Road, Standish, Maine 04084, and was, at all times material herein, a sales representative for HER, Inc. David J. Hall and Steven A. Hall are brothers.

#### STATUTORY BACKGROUND

7. The Revised Maine Securities Act regulates persons who offer or sell securities in the State of Maine. Promissory notes are securities within the meaning of 32 M.R.S.A. §10501(18) (1988).

8. The Act prohibits the offer or sale of securities which are not registered in Maine unless the security or the transaction is exempt from registration. 32 M.R.S.A. §§10401-10402 (1988 and Supp. 1995).

9. Pursuant to 32 M.R.S.A. §10201 (1988), a person may not, in connection with the offer, sale or purchase of any security, directly or indirectly make any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements made, in light of the circumstances under which they are made, not misleading.

10. The Securities Administrator may refer violations of the Act to the Attorney General for enforcement and the Attorney General may initiate an action in Superior Court. 32 M.R.S.A. §10602(1)(D) (Supp. 1995).

11. In an enforcement action under the Act, the court may grant a variety of remedies, including injunctions, civil penalties and restitution to investors. 32 M.R.S.A. §10603 (1988 and Supp. 1995).

12. Pursuant to 32 M.R.S.A. §10602(3) (Supp. 1995), in a civil action brought by the Attorney General for a violation of any provision of this Act, every officer of a corporation that employs a person who violates the Act may be held secondarily liable to the same extent as that other person, unless the officer otherwise secondarily liable under this Act proves that he did not know, and in the exercise of reasonable care could not have known, of the existence of the facts by reason of which the liability is alleged to exist. Any of the remedies authorized by section 10603, subsections 1 and 2 may be granted with respect to a person secondarily liable under this subsection.

13. The Revised Maine Securities Act's requirements regarding registration and licensing provide protections to Maine consumers. The registration process requires the filing with the Securities Administrator of disclosure documents which sellers of the securities are required to provide to potential buyers. The documents, which the Securities Administrator has the authority to review, must give a fair and balanced presentation regarding the potential benefits and the risks associated with the investment. Since the defendants did not register their securities with the Securities Administrator, Maine investors were not afforded the protections in the law.

#### SALE OF UNREGISTERED SECURITIES

14. As set forth in more detail in Attachment A, from on or about June 16, 1995 to on or about October 11, 1995, Steven A. Hall, David J. Hall, and Paul Richard, acting on behalf of HER, Inc., offered and sold in Maine promissory notes issued by HER, Inc. These promissory notes, which are securities under the Act, were not registered with the Securities Administrator,

and neither the notes nor the transactions in which they were sold qualified for an exemption from the registration requirement.

15. As set forth in more detail in Attachment A, on December 19, 1995, David J. Hall offered and sold in Maine promissory notes issued by Paul Richard. On information and belief, the proceeds from the sale of these notes were to be used to fund the activities of HER, Inc. These notes, which are securities under the Act, were not registered with the Securities Administrator, and neither the notes nor the transactions in which they were sold qualified for an exemption from the registration requirement.

16. On information and belief, during 1995 the defendants offered and sold promissory notes to at least two other investors in the State of Maine, and these notes were neither registered nor exempt from registration under the Act.

#### MATERIAL OMISSIONS AND UNTRUE STATEMENTS

17. In connection with the offer and sale of the promissory notes to Albert and Sharon Beety, Gail L. Weir, Michael E. Johnson, and Harold and Helen Hebert, David J. Hall omitted to state material facts necessary to make not misleading the statements by David J. Hall that the notes were to be used for real estate and small business investments by HER, Inc., and would provide a high rate of return, particularly in comparison with rates being paid by banks and available on other investments. More specifically, David J. Hall omitted to tell these investors that given the speculative nature of investing in distressed real estate and small business ventures, there was a significant risk that HER, Inc., would be unable to perform in accordance with the terms of the promissory notes and that this risk was rendered even greater by potential cash flow problems which could develop from HER, Inc.'s plan to finance what are usually

longer term investments with short-term notes. On information and belief, David J. Hall also failed to tell these investors that some of the money raised through the sale of the notes had been or would be used to pay for improvements on David J. Hall's personal residence and for the pursuit of other business interests of Paul Richard.

18. In connection with the offer and sale of the promissory notes to Colette T. Albert, Francis B. Wentworth, and Raymond Lewis, Steven A. Hall omitted to state material facts necessary to make not misleading the statements by Steven A. Hall that the notes were to be used for real estate and small business investments by HER, Inc. and would provide a high rate of return, particularly in comparison with rates being paid by banks and available on other investments. More specifically, Steven A. Hall omitted to tell these investors that given the speculative nature of investing in distressed real estate and small business ventures, there was a significant risk that HER, Inc., would be unable to perform in accordance with the terms of the promissory notes and that this risk was rendered even greater by potential cash flow problems which could develop from HER, Inc.'s plan to finance what are usually longer term investments with short-term notes. On information and belief, Steven A. Hall also failed to tell these investors that some of the money raised through the sale of the notes had been or would be used to pay for improvements on David J. Hall's personal residence and for the pursuit of other business interests of Paul Richard.

19. In connection with the offer and sale of the promissory note to Gail Weir, David J. Hall made an untrue statement of a material fact by stating that an investment in the note was a "sure thing."

20. In connection with the offer and sale of the promissory note to Harold and Helen Hebert, David J. Hall made an untrue statement of a material fact by stating that their investment was guaranteed because there was enough backing by Paul Richard in case something went wrong.

21. In connection with the offer and sale of the promissory note to Colette T. Albert, Steven A. Hall made an untrue statement of a material fact by describing the note as a "safe investment."

22. In connection with the offer and sale of the promissory note to Francis B. Wentworth, Steven A. Hall made an untrue statement of a material fact by describing the note as a "safe, sure investment."

#### COUNT I

23. Plaintiffs reallege paragraphs 1 through 16.

24. HER, Inc. has violated the Revised Maine Securities Act, 32 M.R.S.A. §10401 (1988), because, through its agents, it offered and sold in the State of Maine securities that were not registered or exempt from registration under the Act.

#### COUNT II

25. Plaintiffs reallege paragraphs 1 through 16.

26. David J. Hall has violated the Revised Maine Securities Act, 32 M.R.S.A. §10401 (1988), because he offered and sold securities in the State of Maine that were not registered or exempt from registration under the Act.

#### COUNT III

27. Plaintiffs reallege paragraphs 1 through 16.

28. Steven A. Hall has violated the Revised Maine Securities Act, 32 M.R.S.A. §10401 (1988), because he offered and sold securities in the State of Maine that were not registered or exempt from registration under the Act.

COUNT IV

29. Plaintiffs reallege paragraphs 1 through 16.

30. Paul Richard has violated the Revised Maine Securities Act, 32 M.R.S.A. §10401 (1988), because he offered and sold securities in the State of Maine that were not registered or exempt from registration under the Act.

COUNT V

31. Plaintiffs reallege paragraphs 1 through 22.

32. HER, Inc., has violated the Revised Maine Securities Act, 32 M.R.S.A. §10201(2) (1988), because, through its agents, in connection with the offer and sale of securities, it made untrue statements of material fact and omitted to state material facts necessary in order to make statements made, in light of the circumstances under which they were made, not misleading.

COUNT VI

33. Plaintiffs reallege paragraphs 1 through 22.

34. David J. Hall has violated the Revised Maine Securities Act, 32 M.R.S.A. §10201(2) (1988), because, in connection with the offer and sale of securities, he made untrue statements of material fact and omitted to state material facts necessary in order to make statements made, in light of the circumstances under which they were made, not misleading.

COUNT VII

35. Plaintiffs reallege paragraphs 1 through 22.



36. Steven A. Hall has violated the Revised Maine Securities Act, 32 M.R.S.A. §10201(2) (1988), because, in connection with the offer and sale of securities, he made untrue statements of material fact and omitted to state material facts necessary in order to make statements made, in light of the circumstances under which they were made, not misleading.

#### COUNT VIII

37. Plaintiffs reallege paragraphs 1 through 36.

38. Pursuant to 32 M.R.S.A §10602(3) (Supp. 1995), Steven A. Hall, president and director of HER, Inc., is secondarily liable for the violations found herein.

#### COUNT IX

39. Plaintiffs reallege paragraphs 1 through 38.

40. Pursuant to 32 M.R.S.A §10602(3) (Supp. 1995), Paul Richard, treasurer of HER, Inc., is secondarily liable for the violations found herein.

WHEREFORE, plaintiffs pray that this Court grant the following relief:

1. An injunction prohibiting the defendants from selling or offering for sale securities within the State of Maine unless the securities are registered in Maine or the securities or transactions are exempt from registration;
2. A civil penalty of \$10,000 for each violation found against each defendant;
3. An order requiring the defendants to offer and make restitution to the Maine investors by offering to rescind the sale and returning the purchase price of each investment with all commissions, fees and interest, to each investor who accepts the offer;

4. An order requiring the defendants to provide an accounting of the monies they have received from Maine investors; or in the alternative, the appointment of a receiver to take over the operations of HER, Inc., until Maine investors are made whole;

5. Such other and further relief as this Court deems appropriate.

Respectfully submitted,

Dated: 3/25/96

A handwritten signature in cursive script, appearing to read "Linda Conti", is written over a horizontal line.

LINDA CONTI  
Assistant Attorney General  
6 State House Station  
Augusta, Maine 04333-0006  
Telephone: 626-8800

**Attachment A****Notes issued by HER, Inc.**

<b><u>Representative</u></b>	<b><u>Investor Name</u></b>	<b><u>Town</u></b>	<b><u>Amount</u></b>	<b><u>Note Date</u></b>	<b><u>Note Maturity Date</u></b>	<b><u>Note Interest Rate**</u></b>
D. Hall	Albert & Sharon Beety	Old Orchard Beach	\$ 25,000	6/16/95	12/16/95	10%
S. Hall	George S. Woodbury (Deceased)	Auburn	\$ 75,000	6/22/95	6/22/96	20% per annum
D. Hall	Alice Bettany	Standish	\$119,000	7/29/95	1/29/96	20%
S. Hall	Colette T. Albert	Lewiston	\$ 65,000	8/7/95	8/7/96	10% per annum
D. Hall	Bradley Marean	Standish	\$ 56,432.04	8/11/95	8/11/96	20%
P. Richard	Joan Roberts	Sabbatus	\$ 33,850	8/16/95	8/16/96	12%
D. Hall	Gail L. Weir	Standish	\$ 10,000	8/28/95	10/30/95	10%
D. Hall	Michael E. Johnson	Scarborough	\$ 34,047.04	9/14/95	3/14/96	10%
S. Hall	Frances B. Wentworth	Auburn	\$ 16,436.21	9/22/95	9/22/96	10% per annum

<u>Representative</u>	<u>Investor Name</u>	<u>Town</u>	<u>Amount</u>	<u>Note Date</u>	<u>Note Maturity Date</u>	<u>Note Interest Rate**</u>
S. Hall	Raymond Lewis	Brunswick	\$53,200	9/27/95	5/27/96	10%
D. Hall	Alice Bettany	Standish	\$ 66,685	10/3/95	10/3/96	20%
P. Richard	Alfina Richard	Lewiston	\$ 25,750	10/3/95	4/3/96	10%
D. Hall	Sharon Beety	Old Orchard Beach	\$ 25,000	10/11/95	4/11/96	15%
D. Hall	Harold & Helen Hebert	Standish	\$ 17,022	10/11/95	4/11/96	10%

**Notes issued by Paul Richard**

<u>Representative</u>	<u>Investor Name</u>	<u>Town</u>	<u>Amount</u>	<u>Note Date</u>	<u>Note Maturity Date</u>	<u>Note Interest Rate</u>
D. Hall	Erlon Marean & Margaret Marean	Standish	\$ 50,000	12/19/95	4/19/96	10%
D. Hall	Bradley Marean	Standish	\$ 15,000	12/19/95	4/19/96	10%

**\*\*Except where indicated, interest rates were for the term of the note.**

STATE OF MAINE  
KENNEBEC, SS.

SUPERIOR COURT  
CIVIL ACTION  
DOCKET NO. CV-96-134

STATE OF MAINE, and )  
SECURITIES ADMINISTRATOR, )  
 )  
Plaintiffs, )

v. )

HER, INC., )  
STEVEN A. HALL, )  
DAVID J. HALL, )  
PAUL B. RICHARD, )  
LITIGATION RESOURCES, LLC, )  
THOMAS E. BLACKBURN, )  
JAMES E. ERSKINE, )  
CAPITAL PLACEMENT )  
SERVICES CORPORATION, )  
d/b/a CAPITAL PLACEMENT )  
SERVICES, INC., )  
ROLAND L. MORIN, )  
DONALD R. SHIELDS, )  
ARMAND N. PELLETIER, and )  
FORT HILL FINANCIAL, INC., )  
 )  
Defendants. )

**AMENDED COMPLAINT**

**INTRODUCTION**

1. The plaintiffs seek civil penalties, restitution, disgorgement, declaratory, injunctive, and other relief from the defendants arising from their violations of Maine's securities laws by selling over \$5,000,000 in unregistered securities, by acting as unlicensed securities broker-dealers or sales representatives, by employing or contracting with unlicensed securities sales representatives, and by engaging in fraudulent and other prohibited practices in the offer and sale of securities.

### JURISDICTION

2. This court has jurisdiction pursuant to 4 M.R.S.A. § 105 (1989) and 32 M.R.S.A. §§ 10602-10603 (1988 & Supp. 1996).

### PARTIES

3. Plaintiff State of Maine is a sovereign state, and plaintiff Securities Administrator is responsible for administering and enforcing the Revised Maine Securities Act, 32 M.R.S.A. § 10101-10713 (1988 & Supp. 1996). The plaintiffs bring this action by and through the Attorney General, Andrew Ketterer, pursuant to 32 M.R.S.A. § 10602(1)(D) (Supp. 1996) and pursuant to the powers vested in him by 5 M.R.S.A. § 191 (Pamph. 1996) and by the common law as the chief law enforcement officer of the State of Maine.

4. Defendant HER, Inc. was a Maine corporation with a principal place of business in Old Orchard Beach, Maine. HER, Inc. issued and sold, through its agents, unregistered securities to investors, and acted as an agent of Catherine Petit and the Petit Corporations (collectively, "Petit"), as defined below, offering to sell, and selling, unregistered securities to investors.

5. Defendant Steven A. Hall ("Steven Hall"), a resident of Saco, Maine, was, at all relevant times, the president and the sole director of HER, Inc. Steven Hall issued and sold securities to investors, and acted as an agent of Petit, HER, Inc., Capital Placement, and Richard, as defined below, offering to sell, and selling, unregistered securities to investors.

6. Defendant David J. Hall ("David Hall"), a resident of Standish, Maine acted as an agent of Petit, HER, Inc., Capital Placement, and Richard, as defined below, offering to sell, and selling, unregistered securities to investors.

7. Defendant Paul B. Richard ("Richard"), a resident of Lewiston, Maine, was, at all relevant times, the treasurer of HER, Inc. and was the only authorized person and incorporator of Litigation Resources, as defined below. Richard issued, offered to sell, and sold, unregistered securities to investors, and acted as an agent of Petit, HER, Inc., and Litigation Resources, as defined below, offering to sell, and selling, unregistered securities to investors.

8. Defendant Litigation Resources, LLC ("Litigation Resources"), at all relevant times, was a Delaware corporation with no known principal place of business. Litigation Resources issued and sold, through its agents, unregistered securities to investors, and acted as an agent of Petit, as defined below, offering to sell, and selling, unregistered securities to investors.

9. Defendant Thomas E. Blackburn ("Blackburn"), a resident of Portland, Maine, acted as an agent of Petit offering to sell, and selling, unregistered securities to investors.

10. Defendant James E. Erskine ("Erskine"), a resident of Turner, Maine, at was, at all relevant times, a principal of HER, Inc. and was the only clerk and incorporator of Capital Placement, as defined below. Erskine acted as an agent of HER, Inc., Petit, and Capital Placement, as defined below, offering to sell, and selling, unregistered securities to investors.

11. Defendant Capital Placement Services Corporation, doing business as Capital Placement Services, Inc. ("Capital Placement"), was a Maine corporation with a principal place of business in Turner, Maine. Capital Placement issued and sold, through its agents, unregistered securities to investors, and acted as an agent of Petit, as defined below, offering to sell, and selling, unregistered securities to investors.

12. Defendant Roland L. Morin ("Morin"), a resident of Litchfield, Maine, acted as an agent of Petit offering to sell, and selling, unregistered securities to investors.

13. Defendant Donald R. Shields ("Shields"), a resident of Edgecomb, Maine, is one of the two directors and is one of the two principals of Fort Hill Financial, Inc., which issued unregistered securities that were sold to investors, and of Fort Hill Realty Trust, which received monies as a result of the sales of unregistered securities issued by Fort Hill Financial, Inc. Shields acted as an agent of Petit and Fort Hill, as defined below, offering to sell, and selling, unregistered securities to investors.

14. Defendant Armand N. Pelletier ("Pelletier"), a resident of Old Orchard Beach, Maine, is the president, is one of the two directors and is one of the two principals of Fort Hill Financial, Inc., which issued unregistered securities that were sold to investors, and of Fort Hill Realty Trust, which received monies as a result of the sales of unregistered securities issued by Fort Hill Financial, Inc. Pelletier acted



as an agent of Petit and Fort Hill, as defined below, offering to sell, and selling, unregistered securities to investors.

15. Defendant Fort Hill Financial, Inc. ("Fort Hill") at all relevant times, was a Maine corporation with a principal place of business in Edgecomb, Maine. Fort Hill issued and sold, through its agents, unregistered securities to investors.

16. Steven Hall, David Hall, Richard, Blackburn, Erskine, Morin, Shields, and Pelletier will be referred to collectively as the individual defendants.

**OTHER RELEVANT PERSONS AND ENTITIES**

17. Catherine Duffy Petit ("Catherine Petit"), is a resident of Old Orchard Beach, Maine, and, at all relevant times, was the president, vice-president, treasurer, sole director, sole shareholder, and the only principal of the active, inactive, and nonexistent Petit Corporations, as defined below. Catherine Petit, individually and allegedly on behalf of the Petit Corporations, issued and sold, through her agents, unregistered securities to investors. The plaintiffs are filing a separate civil action against Catherine Petit.

18. Old Orchard Pier Co., at all relevant times, was an inactive Maine corporation. White Way Amusements, White Way Amusements, Inc., and Old Orchard Beach Pier Company, at all relevant times, were nonexistent corporations. CDP, Inc. and White Way Amusement Co., were Maine corporations that in 1984 were merged into Old Orchard Ocean Pier Company, Inc., which, at all relevant times, was a Maine corporation with a principal place of business in Old Orchard Beach, Maine. These active, inactive, and nonexistent corporations shall be referred

to collectively as the Petit Corporations, and Catherine Petit and the Petit Corporations shall be referred to collectively as Petit. The Petit Corporations, directly or as successors, issued and sold, through their agents, unregistered securities to investors. The plaintiffs are filing a separate civil action against the Petit Corporations.

19. Sun Life Assurance Company of Canada, Sun Life Assurance Company of Canada (U.S.), and Sun Investment Services Company (collectively, "Sun Life") employed defendants Steven Hall and David Hall as agents, licensed to sell insurance and securities. On February 3, 1997, without admitting any liability, Sun Life reached a tentative out-of-court settlement with the State of Maine, establishing a \$2,300,000 fund for investors.

20. Greg O'Halloran ("O'Halloran") is a resident of Winslow, Maine, and acted as an agent of Petit and Richard offering to sell, and selling, an unregistered security to an investor. On February 19, 1997, O'Halloran agreed to an administrative consent order issued by the Securities Administrator, enjoining him from future violations and agreeing to make complete restitution of \$25,000 to the investor.

#### STATUTORY BACKGROUND

21. The Revised Maine Securities Act ("Revised Securities Act"), 32 M.R.S.A. §§ 10101-10713 (1988 & Supp. 1996), regulates persons who offer or sell securities in the State of Maine. For example, promissory notes are securities within the meaning of the Revised Securities Act, 32 M.R.S.A. § 10501(18) (1988).

22. The Revised Securities Act prohibits the offer or sale of securities that are not registered in Maine or exempt from registration, 32 M.R.S.A. § 10401 (1988).

23. The Revised Securities Act prohibits the offer or sale of securities by broker-dealers or sales representatives unless the broker-dealer or sales representative is licensed or exempt from licensing under the Revised Securities Act, 32 M.R.S.A. § 10301(1) (1988), and the Revised Securities Act prohibits the offer or sale of securities by sales representatives on behalf of broker-dealers or issuers for whom the sales representatives is not licensed, 32 M.R.S.A. § 10308(3) (1988).

24. The Revised Securities Act prohibits any issuer from employing or from contracting with any sales representative who is not is licensed or exempt from licensing under the Revised Securities Act, 32 M.R.S.A. § 10301(2) (1988).

25. The Revised Securities Act prohibits a seller of securities, in connection with the offer or sale of any security, directly or indirectly, from engaging in fraud, from making any untrue statements or material omissions, or from engaging in any deceptive practices, 32 M.R.S.A. § 10201 (1988).

26. The Revised Securities Act provides civil liability for any person who, in connection with the offer or sale of any security, violates the foregoing provisions of the Revised Securities Act, 32 M.R.S.A. § 10603 (1988 & Supp. 1996), and also provides joint and several civil liability for any control person, which includes every person who directly or indirectly controls another person liable for securities violations, every partner, officer, or director of any person liable for securities

violations, and every employee who materially aids in the act or transaction constituting the securities violation, 32 M.R.S.A. § 10602(3) (Supp. 1996).

### **FACTUAL BACKGROUND**

#### **Petit Litigation**

27. On November 20, 1986, Petit filed suit against Key Bancshares of Maine, Inc. ("Key Bank") and the law firm and several lawyers from Bernstein, Shur, Sawyer & Nelson (collectively, "Bernstein, Shur"), alleging fraud, breach of implied covenants of good faith and fair dealing, intentional and negligent infliction of emotional distress, and intentional interference with an advantageous contractual relationship in connection with a participation loan (the "Key Bank litigation").

28. On September 9, 1990, Petit reached a \$3,900,000 settlement with Bernstein, Shur to settle all of Petit's claims against the firm and its lawyers. Petit continued to litigate the claims against Key Bank.

29. According to an accounting submitted by Petit's counsel in the Key Bank litigation, Looney & Grossman, the proceeds of the Bernstein, Shur settlement were placed in two escrow accounts established by Looney & Grossman, and substantially all of the proceeds were subsequently disbursed from the Looney & Grossman escrow accounts, so that:

- a. By December 31, 1990, approximately \$800,000 remained in the escrow accounts;
- b. By December 31, 1991, approximately \$420,000 remained in the escrow accounts;

- c. By December 31, 1992, approximately \$65,000 remained in the escrow accounts;
- d. By March 1, 1993, approximately \$65,000 remained in the escrow accounts;
- e. By June 1, 1993, approximately \$51,000 remained in the escrow accounts; and
- f. By January 31, 1994, approximately \$31,000 remained in the escrow accounts, and all of these remaining proceeds were obligated to be paid to third parties.

30. On January 4, 1993, the Superior Court granted Key Bank's motion for summary judgment against Petit on all but one of the remaining claims of Petit's complaint against Key Bank, and, on December 27, 1993, the Law Court affirmed that decision, *Petit v. Key Bancshares Of Maine, Inc.*, 635 A.2d 956 (Me. 1993).

31. On June 4, 1993, several creditors filed an involuntary bankruptcy petition against Catherine Petit, and Catherine Petit has continued to be a debtor in bankruptcy since that date, *In re Catherine Duffy Petit*, Case No. 93-20821, Chapter 7 (Bankr. D. Me.).

32. The bankruptcy trustee and virtually all of Catherine Petit's creditors have taken the position that since the filing of the bankruptcy petition on June 4, 1993, the Key Bank litigation has been the exclusive property of the bankruptcy estate, and not Catherine Petit.

33. On November 29, 1994, the bankruptcy court denied Catherine Petit's motion to exempt from the property of the bankruptcy estate the Key Bank litigation, *In re Petit*, 174 B.R. 868 (Bankr. D. Me. 1994), and this decision was affirmed by the district court on March 10, 1995, *Petit v. Fessenden*, 182 B.R. 59 (D. Me. 1995), which, in turn, was affirmed by the First Circuit on April 3, 1996, *Petit v. Fessenden*, 80 F.3d 29 (1st Cir. 1996).

34. On May 5, 1995, the Superior Court granted Key Bank's motion for summary judgment against Petit on the remaining claim of Petit's complaint against Key Bank. However, on December 31, 1996, the Law Court vacated that decision, and remanded the matter for further proceedings, *Petit v. Key Bancshares Of Maine, Inc.*, No. 7891 (Me. Dec. 31, 1996). It is currently uncertain and unknown when Petit's remaining claim against Key Bank will ultimately be resolved, whether Petit will prevail on that claim, and, if Petit prevails on that claim, what, if any, damages will be recovered.

#### Various Investment Schemes

35. Between at least January 1993 and September 1996, the defendants offered and sold millions of dollars of unregistered securities, principally in the form of investments in the Key Bank litigation.

36. In connection with the offer and sale of securities in each of these various investment schemes, the defendants, directly and indirectly, employed devices, schemes, and artifices to defraud, made material untrue statements and

omissions, and engaged in deceptive practices that were common to each of the investment schemes.

37. The defendants also engaged in a conspiracy to defraud investors and to fraudulently conceal their illegal securities activities from investors and from others, including regulatory officials.

38. The individual defendants stated that the investments were safe, sound, or guaranteed, even though the investments were highly speculative, unsafe, unsound, and not guaranteed.

39. The defendants falsely stated or implied that the investments would generate high rates of return, even though there was no basis for such representations.

40. The individual defendants did not disclose the risks involved in the securities that were offered or sold.

41. The individual defendants stated that the investments were liquid and could be recouped at any time within a few months or a year, even though the investments were not liquid and there was no secondary market for such securities.

42. The defendants diverted some of the money raised either to the defendants' other business interests or to the individual defendants' personal expenses, such as David Hall's home improvements and Catherine Petit's cable TV bills, credit card bills, and clothing account bills at the Forgotten Woman.

43. The individual defendants did not disclose that some money raised would not be invested as promised.

44. The individual defendants did not disclose that the investments were not registered with the Securities Division, and were not exempt from registration, and thus were being sold in violation of Maine's securities laws, and could not be sold to or re-sold by investors.

45. The individual defendants frequently did not disclose the nature of the investments, and did not provide any supporting paperwork for the investments.

46. Richard, Blackburn, Erskine, Morin, Shields, Pelletier, and O'Halloran did not disclose that they were not licensed as sales representatives to sell any securities, and thus the investments were being sold in violation of Maine's securities laws.

47. Steven Hall and David Hall did not disclose that they were only licensed to sell securities on behalf of Sun Life, and that they were not licensed as sales representatives to sell the securities on behalf of Petit, HER, Inc., Capital Placement, or Richard, and thus the investments were being sold in violation of Maine's securities laws.

48. Steven Hall and David Hall falsely implied to some investors or led investors to believe that the investments were either Sun Life products or were backed by Sun Life.

49. Steven Hall and David Hall fraudulently induced investors to rely on them in making investments given the investors' age, lack of sophistication, or long-time insurance or securities relationship with Sun Life, Steven Hall or David Hall.



50. Steven Hall and David Hall falsely represented to investors that their Sun Life annuities were not doing well, and falsely represented that the investment schemes described below were equally safe and would earn substantially greater returns, in order to convince investors to cash in their Sun Life annuities and make these other investments.

51. Steven Hall and David Hall did not disclose to some investors the costs associated with surrendering their Sun Life annuities, including surrender charges and taxes.

52. Following the commencement of the State of Maine's investigation in October 1995, Steven Hall, David Hall, and Richard did not disclose that they had been instructed by the Securities Division not to sell unregistered securities.

53. Following the commencement of the State of Maine's investigation in October 1995, the individual defendants engaged in a pattern of fraudulent concealment by making numerous misrepresentations and threats to investors to prevent them from cooperating with governmental investigators. For example, investors were told that confidentiality agreements or orders precluded cooperation, that only investors who did not cooperate with the State would be paid, and that cooperation with the State would prevent the investment schemes from succeeding, and thus investors would not get their money back.

54. Following the commencement of this litigation in March 1996, Steven Hall and Richard did not disclose that they had been enjoined by this court from offering or selling securities.

55. Based on these untrue statements and omissions, the defendants sold millions of dollars of unregistered securities.

56. The individual defendants made numerous misrepresentations specific to the various investment schemes in addition to the misrepresentations common to all of the defendants' investment schemes.

**Petit Litigation Investment Scheme**

57. Between January 1993 and September 1996, Petit and Petit's agents, Steven Hall, David Hall, Richard, Blackburn, Erskine, Morin, Shields, Pelletier, and O'Halloran, have offered and sold millions of dollars of unregistered securities in the form of investments in the Key Bank litigation.

58. In connection with the offer and sale of investments in the Key Bank litigation the individual defendants, directly and indirectly, employed devices, schemes, and artifices to defraud, made material untrue statements and omissions, and engaged in deceptive practices.

59. The individual defendants stated to a few investors that Petit was sure, certain, or likely to prevail in racketeering litigation against Key Bank in New York, even though no such litigation has ever been filed, and even though it is highly speculative to predict whether any party will prevail in any litigation.

60. The individual defendants stated that Petit was sure, certain, or likely to prevail in the Key Bank litigation, even though it is highly speculative to predict whether any party will prevail in any litigation.

61. The individual defendants stated that Petit was sure, certain, or likely to prevail in the Key Bank litigation based on purported legal investigations and research conducted by various lawyers, including Blackburn.

62. The individual defendants falsely implied that Petit was sure, certain, or likely to prevail in the Key Bank litigation through presentations conducted by Blackburn, who was described as Catherine Petit's lawyer or advisor, even though Blackburn's only role in the Key Bank litigation was to raise money.

63. The individual defendants did not disclose that all but one of the claims in the Key Bank litigation had been dismissed by the Superior Court in January 1993, which dismissal was affirmed on appeal in December 1993.

64. The individual defendants did not disclose that the remaining claim in the Key Bank litigation had been dismissed by the Superior Court in May 1995. Although this decision was vacated on appeal in December 1996, that occurred after all of the securities had been sold.

65. The individual defendants stated, and continue to state, that the Key Bank litigation is going to be tried to a jury in the immediate future, even though no trial has been or is scheduled. Over the years, in order to raise money from investors who had previously invested, the individual defendants frequently stated that the trial was imminent, and that only a small additional amount of money needed to be raised in order to try the case.

66. The individual defendants did not disclose that it is unknown, uncertain, and highly speculative when the Key Bank litigation will be tried, and if

tried, whether Petit will prevail, and, if Petit prevails, whether Key Bank will appeal, and, if Key Bank appeals, when such an appeal will be decided and whether Petit will prevail in such an appeal.

67. The individual defendants failed to disclose that the money raised would not be used exclusively to pay for the Key Bank litigation.

68. The individual defendants falsely stated that it was necessary to raise money to pay for litigation costs in the form of attorneys' fees and expert witness fees in the Key Bank litigation, even though, first, attorneys had handled the case, in whole or in part, on a contingency basis, second, discovery, including expert discovery, had been completely or nearly completely conducted prior to almost all of the investments, and third, almost all of the litigation costs had been incurred and paid for prior to 1994.

69. The individual defendants stated that Petit was sure, certain, or likely to recover millions of dollars in damages in the Key Bank litigation, even though it is highly speculative to predict the amount of damages any party will recover in any litigation.

70. The individual defendants and the promissory notes provided by the individual defendants both stated that the investors would receive extraordinary returns, such as double your money, triple your money, or interest of between 10 and 20 percent per annum, even though such returns were illusory.

71. The individual defendants stated that the investments were guaranteed and secure and that investors could not lose their money, although there was nothing that provided any such guarantee, security, or assurance.

72. The individual defendants stated to some investors that the investments were held in trust, even though there was no trust or trust account for the investments. Following investment, as part of the conspiracy and fraudulent concealment, some investors were told that their money could not be returned because it was being held in trust, even though there was no trust or trust account for the investments.

73. Although some of the investors paid their money to the Thomas Blackburn Trust Account, their money was not held in trust, and was not even retained in the Thomas Blackburn Trust Account.

74. The individual defendants stated that the investments were backed or protected by an escrow fund, even though all of the money from the Bernstein, Shur settlement escrow funds had been disbursed or obligated to others by January 1994.

75. The individual defendants and the promissory notes provided by the individual defendants both stated that the investors had a lien on proceeds recovered by Looney & Grossman from the Key Bank litigation, even though no such lien existed, and even though Looney & Grossman no longer actively represent Petit in the Key Bank litigation.

76. The individual defendants stated to some investors that Petit had recovered millions of dollars from her former lawyers, Bernstein, Shur, although the individual defendants did not disclose that all of the money recovered from the Bernstein, Shur settlement had been disbursed or obligated to others by January 1994.

77. The individual defendants did not disclose that any damages awarded against Key Bank might be reduced or offset, in whole or in part, by Petit's prior settlement with Bernstein, Shur.

78. The individual defendants did not disclose the existence or extent of millions of dollars of other investments in the Key Bank litigation, which substantially increased the possibility that the money recovered in the Key Bank litigation would be insufficient to repay investors.

79. Following Catherine Petit's involuntary bankruptcy filing in June 1993, the individual defendants did not disclose the bankruptcy filing to pre-petition investors so that they could file claims in the bankruptcy court.

80. The individual defendants did not disclose to investors who invested prior to June 1993 that their claims could be discharged in bankruptcy.

81. As part of the conspiracy and fraudulent concealment, Catherine Petit did not disclose pre-petition investments to the bankruptcy court.

82. For investors who invested following Catherine Petit's involuntary bankruptcy filing in June 1993, the individual defendants did not disclose the bankruptcy filing to such investors.

83. As part of the conspiracy and fraudulent concealment, Catherine Petit did not disclose the post-petition investments to the bankruptcy court.

84. The individual defendants did not disclose to investors the existence in the bankruptcy court of millions of dollars of general creditor or administrative claims that could substantially reduce or extinguish any recovery available to pay investors in the Key Bank litigation.

85. The individual defendants did not disclose that the bankruptcy trustee contended that the Key Bank litigation was the exclusive asset of the bankruptcy estate, and not Catherine Petit, and the individual defendants did not disclose that three federal courts had rejected Catherine Petit's motion to exempt from the property of the bankruptcy estate the Key Bank litigation.

86. Following the bankruptcy filing in June 1993, the individual defendants provided investors with promissory notes signed by Catherine Petit allegedly on behalf of the Petit Corporations, falsely implying that the corporations existed and were in good standing.

87. The individual defendants did not disclose that, following Catherine Petit's involuntary bankruptcy filing in June 1993, Catherine Petit may have lacked the authority, either individually or on behalf of the Petit Corporations, to issue the promissory notes or assignments provided to investors.

88. The individual defendants did not disclose that following the bankruptcy filing in June 1993, Catherine Petit has denied receiving any money, including investments in her lawsuit against Key Bank, has denied authorizing any

one to raise money through investments in her lawsuit against Key Bank, and has disputed the authenticity of some promissory notes evidencing such investments.

89. The individual defendants stated that Petit was sure, certain, or likely to prevail in malpractice litigation against Petit's former lawyers, including Looney & Grossman and Richard Poulos, Esq., even though no such litigation has ever been filed, and even though it is highly speculative to predict whether any party will prevail in any litigation.

90. The individual defendants did not disclose that there were substantial defenses against any such malpractice claims, such as the statute of limitations, did not disclose that it could take years to litigate the malpractice claims, and did not disclose that the amount of damages was highly speculative.

91. As part of the conspiracy and fraudulent concealment, the individual defendants made numerous untrue statements in order to explain their failure to provide some investors with promissory notes, or to collect previously issued promissory notes.

92. The individual defendants stated that the investments were confidential or were subject to a court-imposed confidentiality order or gag order, and thus could not be disclosed to any one, including governmental regulators, and that investors could lose their investment if they violated the confidentiality agreement or order, even though such investments were not subject to any confidentiality agreement or order.



93. The individual defendants' fraudulent use of confidentiality orders and agreements prevented investors from discovering the millions of dollars of investments made by others and discouraged investors from cooperating with governmental regulators in any investigation of the sale of such investments.

94. Based on these untrue statements and omissions, the defendants sold millions of dollars of securities in the form of investments in the Key Bank litigation.

#### Other Investment Schemes

95. In addition to direct investments in the Key Bank litigation, the defendants have utilized a series of corporations and other entities to raise millions of dollars in investment money, which allegedly was also used to invest in the Key Bank litigation. In addition to the misrepresentations common to all of the investment schemes and in addition to the misrepresentations specific to the Petit litigation investment scheme described above, the individual defendants made additional specific untrue statements and omissions in the offer and sale of these securities.

96. On September 22, 1994, Shields and Pelletier formed Fort Hill, which raised money to invest in a variety of ventures, which included the Key Bank litigation. Each of the defendants involved in the sale of securities in the form of investments in Fort Hill was also involved in the sale of securities in the form of investments in the Key Bank litigation.

97. Since September 22, 1994, Fort Hill and its agents, Shields and Pelletier (collectively, the "Fort Hill agents"), have offered and sold hundreds of thousands of dollars of unregistered securities in the form of investments in the Key Bank litigation in which Fort Hill was the conduit for the investment.

98. The Fort Hill agents provided promissory notes to investors that stated the investors were investing in an assignment in the Key Bank litigation that Fort Hill allegedly obtained from Morin.

99. The Fort Hill agents did not disclose the increased risk in purchasing an assignment, including the possible invalidity of the assignment and the possible lack of any direct recourse against Petit in the Key Bank litigation.

100. On March 15, 1994, Erskine formed Capital Placement, which raised money for investment in a variety of ventures, which included the Key Bank litigation and HER, Inc. Each of the defendants involved in the sale of securities in the form of investments in Capital Placement was also involved in the sale of securities in the form of investments in the Key Bank litigation.

101. Since March 15, 1994, including after Capital Placement was suspended as a corporation on July 14, 1995, Capital Placement and its agents, Steven Hall, David Hall, Richard, and Erskine (collectively, the "Capital Placement agents"), have sold millions of dollars of unregistered securities in the form of investments in Capital Placement, the Key Bank litigation, or HER, Inc., in which Capital Placement was the conduit for the investment.

102. The Capital Placement agents did not disclose that Capital Placement did not have any assets and did not retain any money invested by investors, thus increasing the risk that investors would not be repaid.

103. The Capital Placement agents falsely stated or implied that Capital Placement would guarantee investments made in the Key Bank litigation, even though Capital Placement did not have any assets to provide such a guarantee.

104. The Capital Placement agents provided some investors with an assignment of Capital Placement's interest in the Key Bank litigation, even though no one, including Petit, ever acknowledged that Capital Placement ever had an interest in the Key Bank litigation.

105. The Capital Placement agents did not disclose the increased risk in purchasing an assignment, including the possible invalidity of the assignment and the possible lack of any direct recourse against Petit in the Key Bank litigation.

106. On July 14, 1995, Steven Hall, Richard, and Erskine formed HER, Inc., a company that purported to invest in real estate and small business ventures. Each of the defendants involved in the sale of securities in the form of investments in HER, Inc. was also involved in the sale of securities in the form of investments in the Key Bank litigation, some of the investors in the Key Bank litigation received interest payments from HER, Inc., and some of the investors in HER, Inc. had their investments "rolled over" from investments in the Key Bank litigation.

107. Since even prior to its incorporation on July 14, 1995, HER, Inc. and its agents, Steven Hall, David Hall, Richard, and Erskine (collectively, the "HER, Inc.

agents"), have offered and sold over a million dollars of unregistered securities in the form of investments in HER, Inc. HER, Inc. was suspended as a corporation on July 15, 1996.

108. The HER, Inc. agents falsely stated or implied that investments in HER, Inc. were safe, sound, guaranteed, or like an annuity or a certificate of deposit, even though HER, Inc. had few if any investments, and the investments were not safe, not sound, and not guaranteed.

109. HER, Inc. stated that it was "A Maine Investment Group," falsely implying that HER, Inc. was licensed to sell securities.

110. The HER, Inc. agents informed some investors that HER, Inc. was investing in real estate, distressed real estate, and small business ventures, even though it had few, if any, investments in real estate or small business ventures.

111. The HER, Inc. agents did not disclose the speculative nature of investment in real estate, distressed real estate, and small business ventures, particularly in light of HER, Inc.'s stated plan to finance what are usually longer term investments with short-term notes.

112. The HER, Inc. agents informed some investors that HER, Inc. was investing in the Key Bank litigation, even though no one, including Petit, ever acknowledged that HER, Inc. ever had an interest in the Key Bank litigation.

113. The HER, Inc. agents did not disclose the increased risk in purchasing an assignment, including the possible invalidity of the assignment and the possible lack of any direct recourse against Petit in the Key Bank litigation.

114. Since February 1, 1995, and even since this court issued a temporary restraining order and a preliminary injunction prohibiting Richard from selling unregistered securities, Richard has issued and sold, both individually and through his agents, Steven Hall, David Hall, and O'Halloran, hundreds of thousands of dollars of unregistered securities in Richard's own name based on the assertion that he was entitled to some or all of, or had an interest in, the proceeds of the Key Bank litigation and/or some other named and unnamed lawsuits. In several instances, Richard issued securities in order to "roll over" prior investments in the Key Bank litigation.

115. Richard and his agents provided some investors with an assignment of Richard's interest in the Key Bank litigation.

116. Richard and his agents did not disclose the increased risk in purchasing an assignment, including the possible invalidity of the assignment and the possible lack of any direct recourse against Petit in the Key Bank litigation.

117. On at least two occasions in 1996, Richard has sought unsuccessfully to obtain an interest in the proceeds of the Key Bank litigation from the bankruptcy estate of Catherine Petit, and Richard and his agents did not disclose that the bankruptcy court had not approved his attempts to obtain an interest in the proceeds of the Key Bank litigation.

118. Since April 1, 1995, and including after this court issued a temporary restraining order and a preliminary injunction prohibiting Steven Hall from selling unregistered securities, Steven Hall has issued, offered, and sold thousands of

dollars of unregistered securities in his own name, or in the Key Bank litigation in which Steven Hall was the conduit for the investment.

119. Steven Hall failed to disclose to some investors the nature of the investment or any risks associated with the investment.

120. On January 29, 1996, Richard formed Litigation Resources, a Delaware limited liability company. Each of the defendants involved in the sale of securities in the form of investments in Litigation Resources was also involved in the sale of securities in the form of investments in the Key Bank litigation, and one of the investors in Litigation Resources had his investment "rolled over" from an investment in the Key Bank litigation.

121. Since January 29, 1996, and even since this court issued a temporary restraining order and a preliminary injunction prohibiting Steven Hall and Richard from selling unregistered securities, Litigation Resources and its agents, Steven Hall and Richard (collectively, the "Litigation Resources agents"), have offered and sold thousands of dollars of unregistered securities in the form of investments in the Key Bank litigation, in which Litigation Resources either issued the security or was the conduit for the investment.

122. The Litigation Resources agents did not disclose that Litigation Resources was not licensed to conduct any business in Maine, including selling securities.

123. The Litigation Resources agents did not disclose that investors were investing in or through Litigation Resources until after the investments were made.

124. In sum, the defendants have, directly and indirectly, employed devices, schemes, and artifices to defraud, made material untrue statements and omissions, and engaged in deceptive practices in connection with the offer and sale of millions of dollars of unregistered securities.

### **FIRST CLAIM FOR RELIEF**

#### **[Sale of Unregistered Securities]**

125. The plaintiffs repeat and reallege the allegations of the preceding paragraphs of the amended complaint.

126. None of the securities offered and sold by the defendants were registered with the Securities Division or were exempt from registration.

127. By reason of the foregoing, HER, Inc., Steven Hall, David Hall, Richard, Litigation Resources, Blackburn, Erskine, Capital Placement, Morin, Shields, Pelletier, and Fort Hill violated 32 M.R.S.A. § 10401 (1988 & Supp. 1996) by offering or selling unregistered securities, and therefore are subject to civil liability pursuant to 32 M.R.S.A. § 10603 (1988 & Supp. 1996).

128. By reason of the foregoing, HER, Inc., Steven Hall, Richard, Litigation Resources, Erskine, Capital Placement, Shields, Pelletier, and Fort Hill are also control persons within the meaning of 32 M.R.S.A. § 10602(3) (Supp. 1996), and therefore are subject to joint and several civil liability for the illegal offers and sales of unregistered securities committed by their agents, partners, officers, directors, and employees.

**SECOND CLAIM FOR RELIEF**

**[Sales By Unlicensed Sales Representatives and Broker-Dealers]**

129. The plaintiffs repeat and reallege the allegations of the preceding paragraphs of the amended complaint.

130. Steven Hall, David Hall, Richard, Blackburn, Erskine, Morin, Shields, Pelletier, and O'Halloran acted as sales representatives in offering and selling securities as agents of Petit, HER, Inc., Litigation Resources, Capital Placement, and Fort Hill.

131. Richard, Blackburn, Erskine, Morin, Shields, Pelletier, and O'Halloran were not licensed or exempt from licensing as sales representatives.

132. Steven Hall and David Hall were not licensed as sales representatives on behalf of the entities for whom they were selling securities, and were not exempt from the licensing requirements.

133. HER, Inc., Litigation Resources, Capital Placement, and Fort Hill acted as broker-dealers in offering and selling securities in the form of investments in the Key Bank litigation in which HER, Inc., Litigation Resources, Capital Placement, and Fort Hill acted as a conduit for the investment.

134. Litigation Resources, Capital Placement, and Fort Hill were not licensed or exempt from licensing as broker-dealers.

135. By reason of the foregoing, HER, Inc., Steven Hall, David Hall, Richard, Litigation Resources, Blackburn, Erskine, Capital Placement, Morin, Shields, Pelletier, and Fort Hill violated 32 M.R.S.A. § 10301(1) (1988), by offering or selling



securities as unlicensed broker-dealers or sales representatives, and therefore are subject to civil liability pursuant to 32 M.R.S.A. § 10603 (1988 & Supp. 1996).

136. By reason of the foregoing, HER, Inc., Steven Hall, Richard, Litigation Resources, Erskine, Capital Placement, Shields, Pelletier, and Fort Hill are also control persons within the meaning of 32 M.R.S.A. § 10602(3) (Supp. 1996), and therefore are subject to joint and several civil liability for the illegal offers and sales of securities committed by their agents, partners, officers, directors, and employees as unlicensed broker-dealers or sales representatives.

### THIRD CLAIM FOR RELIEF

#### [Employing Unlicensed Sales Representatives]

137. The plaintiffs repeat and reallege the allegations of the preceding paragraphs of the amended complaint.

138. HER, Inc., Litigation Resources, Capital Placement, and Fort Hill were issuers that employed or contracted with Steven Hall, David Hall, Richard, Erskine, Shields, Pelletier, and O'Halloran as sales representatives.

139. By reason of the foregoing, HER, Inc., Litigation Resources, Capital Placement, and Fort Hill violated 32 M.R.S.A. § 10301(2) (1988), by employing or contracting with sales representatives who are not licensed or exempt from licensing to offer and sell securities, and therefore are subject to civil liability pursuant to 32 M.R.S.A. § 10603 (1988 & Supp. 1996).

140. By reason of the foregoing, HER, Inc., Steven Hall, Richard, Litigation Resources, Erskine, Capital Placement, Shields, Pelletier, and Fort Hill are also

control persons within the meaning of 32 M.R.S.A. § 10602(3) (Supp. 1996), and therefore are subject to joint and several civil liability for the illegal employment of unlicensed sales representatives committed by their agents, partners, officers, directors, and employees.

**FOURTH CLAIM FOR RELIEF**

**[Fraudulent And Other Prohibited Practices]**

141. The plaintiffs repeat and reallege the allegations of the preceding paragraphs of the amended complaint.

142. By reason of the foregoing, HER, Inc., Steven Hall, David Hall, Richard, Litigation Resources, Blackburn, Erskine, Capital Placement, Morin, Shields, Pelletier, and Fort Hill violated 32 M.R.S.A. § 10201 (1988), by, directly or indirectly, engaging in fraud, making untrue statements or material omissions, and engaging in deceptive practices in connection with the offer or sale of any security, and therefore are subject to civil liability pursuant to 32 M.R.S.A. § 10603 (1988 & Supp. 1996).

143. By reason of the foregoing, HER, Inc., Steven Hall, Richard, Litigation Resources, Erskine, Capital Placement, Shields, Pelletier, and Fort Hill are also control persons within the meaning of 32 M.R.S.A. § 10602(3) (Supp. 1996), and therefore are subject to joint and several civil liability for the fraudulent and other prohibited practices committed by their agents, partners, officers, directors, and employees.

CONCLUSION

144. Wherefore, the plaintiffs respectfully request that the court grant the following relief jointly and severally against each of the defendants:

a. Entry of a preliminary and permanent injunction restraining the defendants from selling unregistered securities, acting as unlicensed sales representatives and broker-dealers, employing or contracting with unlicensed securities sales representatives, and engaging in fraudulent and other prohibited practices in the offer and sale of securities;

b. Entry of an order requiring the defendants to provide an accounting;

c. Imposition of a civil penalty of \$10,000 for each violation against each defendant;

d. Entry of an order requiring the defendants to provide disgorgement;

e. Entry of a declaratory judgment that the defendants' actions violated Maine's securities laws;

f. Restitution to investors wishing restitution, including all monies invested, all commissions, fees, surrender charges, and taxes paid, and interest;

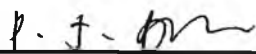
g. Entry of an order requiring the defendants to pay interest, costs, and attorneys' fees; and

h. Entry of an order granting such other and further relief as the court deems appropriate.

Dated: March 26, 1997  
Augusta, Maine

Respectfully submitted,

ANDREW KETTERER  
Attorney General

  
\_\_\_\_\_  
PETER J. BRANN  
LINDA J. CONTI  
Assistant Attorneys General  
Six State House Station  
Augusta, ME 04333-0006  
(207) 626-8800

Attorneys for Plaintiffs

STATE OF MAINE  
KENNEBEC, SS.

SUPERIOR COURT  
CIVIL ACTION  
DOCKET NO. CV-97-059

STATE OF MAINE, *et al.*,

Plaintiffs,

v.

CATHERINE DUFFY PETIT, *et al.*,

Defendants.

)  
)  
) **PRELIMINARY INJUNCTION**  
) **ORDER**  
)  
)  
)

Although Defendants Catherine Duffy Petit ("Catherine Petit") and Old Orchard Pier Co., White Way Amusements, White Way Amusements, Inc., Old Orchard Beach Pier Company, and Old Orchard Ocean Pier Company, Inc., (collectively "Petit Corporations") deny that they sold unregistered securities, Catherine Petit and Petit Corporations (collectively "Petit") consent to the motion for a preliminary injunction filed by the plaintiffs, State of Maine and Securities Administrator (collectively, "State"), and consent to the entry of the following preliminary injunction order:

1. Defendant Catherine Petit is preliminarily enjoined from selling unregistered securities in violation of 32 M.R.S.A. § 10401, from employing unlicensed sales representatives in violation of 32 M.R.S.A. § 10301(2), and from engaging in fraudulent and other prohibited practices in the offer and sale of securities in violation of 32 M.R.S.A. § 10201.

2. Defendants Petit Corporations are preliminarily enjoined from selling unregistered securities in violation of 32 M.R.S.A. § 10401, from acting as unlicensed broker-dealers in violation of 32 M.R.S.A. § 10301(1), from employing unlicensed

sales representatives in violation of 32 M.R.S.A. § 10301(2), and from engaging in fraudulent and other prohibited practices in the offer and sale of securities in violation of 32 M.R.S.A. § 10201.

3. Defendants Catherine Petit and Petit Corporations are each ordered, within 10 calendar days of the date of this order, to provide an accounting, identifying the following:

a. the amounts, location and nature of all of the proceeds (including the disposition of all of the proceeds and all assets derived from those proceeds) of all sales of securities, including all promissory notes or other evidences of indebtedness; and

b. by name, address and telephone number, all known investors in the sales of securities, including all promissory notes or other evidences of indebtedness, the date upon which each investment was made, the amount invested by each investor, and the total amount of principal owed to each investor.

Dated: 10-30-87



DONALD MARDEN  
Justice, Superior Court

STATE OF MAINE  
KENNEBEC, SS.

SUPERIOR COURT  
CIVIL ACTION  
DOCKET NO. CV-96-134

STATE OF MAINE and )  
SECURITIES ADMINISTRATOR, )  
 )  
Plaintiffs )  
 )  
v. )  
 )  
HER, INC., et al., )  
 )  
Defendants )

ORDER GRANTING  
PRELIMINARY  
INJUNCTION

A TRUE COPY

TEST:

*Nancy A. Desjardin*  
Nancy A. Desjardin  
Clerk of Courts

This matter came to be heard on plaintiffs' complaint requesting preliminary injunction; and due notice having been given to defendants; and the Court having considered the testimony and exhibits presented by the parties and having considered the arguments of counsel;

It is found that the preliminary injunction should be issued for the reasons set forth in plaintiffs' complaint and memorandum in support of plaintiffs' motion for preliminary injunction, to wit, that defendants have violated and are continuing to violate 32 M.R.S.A. § 10401 through the sale of unregistered securities which results in injury to the plaintiffs and the public as set forth in the plaintiffs' complaint.

Therefore, on plaintiffs' motion, it is ordered that the defendants HER, Inc., Steven Hall, David Hall and Paul Richard are hereby enjoined from selling unregistered securities. The defendants are further ordered within 10 calendar days of the date of this order to provide an accounting identifying the following:

- A. the amounts, location and nature of all of the proceeds of all sales of notes or other evidences of indebtedness issued by HER, Inc. and/or by Paul Richard (and all assets derived from those proceeds; and
- B. by name, address and telephone number, all known investors in notes or other evidences of indebtedness issued by HER, Inc. and/or Paul Richard, the date upon which each investment was made, the amount invested by each investor and the total amount of principal owed to each investor.

This order is effective forthwith and is issued without the requirement of security which is waived pursuant to 32 M.R.S.A. § 10603(3).

Dated: May 31, 1996

  
Justice, Superior Court



SUPERIOR COURT  
CIVIL ACTION  
DOCKET NO. CV-96-134

**PRELIMINARY INJUNCTION  
ORDER AGAINST  
DEFENDANT LITIGATION  
RESOURCES**

2. Furthermore, based upon the reasons set forth in the plaintiffs' memorandum in support of their motion for a preliminary injunction, dated March 26, 1997, and based upon the affidavit submitted by the plaintiffs on October 10, 1997, and based upon the testimony at the hearing held on October 10, 1997, the court finds that the plaintiffs have satisfied the requirements for the entry of a preliminary injunction pursuant to M.R. Civ. P. 65(b), namely, that they established a likelihood of success on the merits on all claims asserted against defendant Pelletier, that the plaintiffs will suffer irreparable harm if an injunction, including an accounting, is not granted, that such harm outweighs any harm to defendant Litigation Resources, and that the public interest is not adversely affected by the granting of relief.

Based upon these findings, the court enters the following preliminary injunction order:

1. Defendant Litigation Resources is preliminarily enjoined from selling unregistered securities in violation of 32 M.R.S.A. §§ 10401, from acting as an unlicensed broker dealer in violation of 32 M.R.S.A. § 10301(1), by employing unlicensed sales representatives in violation of 32 M.R.S.A. § 10301(2), and from engaging in fraudulent and other prohibited practices in the offer and sale of securities in violation of 32 M.R.S.A. § 10201.

2. Defendant Litigation Resources is ordered, within 10 calendar days of the date of this order, to provide an accounting, identifying the following:

a. the amounts, location and nature of all of the proceeds (including the disposition of all of the proceeds and all assets derived from those proceeds) of all sales of securities, including all promissory notes or other evidences of indebtedness; and

b. by name, address and telephone number, all known investors in the sales of securities, including all promissory notes or other evidences of indebtedness, the date upon which each investment was made, the amount invested by each investor, and the total amount of principal owed to each investor.

Dated: 10-23-87

  
DONALD MARDEN  
Justice, Superior Court

SUPERIOR COURT  
CIVIL ACTION  
CONSOLIDATED DOCKET NOS. CV-96-134  
CV-97-059

PLAINTIFFS' MOTION TO  
DISMISS WITH INCORPORATED  
MEMORANDUM OF LAW

## FACTS

On May 4, 2001, the court entered partial summary judgment in favor of the Plaintiffs against Defendant Paul Richard on counts 1 and 4 of the second amended complaint, and against Defendant Catherine Petit on count 4 of the second amended complaint. The State is requesting that this court dismiss counts 2 and 3 which are pending against Paul Richard, counts 1-3 which are pending against Catherine Petit and all counts pending against Old Orchard Pier Company, Whiteway Amusements, Whiteway Amusements, Inc., Old Orchard Beach Pier Company, CDP, Inc., Whiteway Amusement Co., and Old Orchard Ocean Pier Company, Inc. (hereinafter “Petit Corporations”).

Pursuant to M.R.Civ.P. 41(a)(2), after an answer has been served, an action may be dismissed at plaintiff's insistence only upon order of the court and upon such terms and conditions as the court deems just and proper.

Because the court has previously entered summary judgment against Richard on counts 1 and 4 of the complaint and against Petit on count 4 and because they are presently incarcerated as a result of criminal convictions that were entered against them for the same conduct as alleged in the complaint, it is proper to dismiss the remaining pending claims in the civil complaint. In addition, because judgment has been rendered against Petit individually, the State no longer needs to pursue the now defunct Petit corporations. Further litigation on these remaining claims is not a proper use of resources, as any relief would merely be duplicative.

### CONCLUSION

FOR THESE REASONS, the State requests that the court enter an order dismissing the remaining claims in the complaint and enter a final judgment in this case.

Respectfully submitted,

G. STEVEN ROWE  
Attorney General

A handwritten signature in black ink, appearing to read "Linda J. Conti", is written over a horizontal line.

LINDA J. CONTI – Me. Bar No. 3638  
Assistant Attorney General  
Department of the Attorney General  
State House Station 6  
Augusta, Maine 04333-0006  
(207) 626-8800

Dated: June 22, 2001