

STATE OF MAINE  
KENNEBEC, ss.

SUPERIOR COURT  
CIVIL ACTION  
DOCKET NO. CV-03-137

STATE OF MAINE and )  
SECURITIES ADMINISTRATOR, )  
 )  
Plaintiffs, )  
 )  
v. )  
 )  
PAUL E. RICHARD, )  
 )  
Defendant. )

COMPLAINT

**INTRODUCTION**

1. The State of Maine and Securities Administrator (hereinafter collectively referred to as “the State”) bring this action against Paul E. Richard (“Richard”) for violations of the Revised Maine Securities Act, 32 M.R.S.A. §§ 10101-10713 (1999 and Supp. 2002) in that he sold unregistered securities, in violation of 32 M.R.S.A. § 10401 (1999); sold securities without a license, in violation of 32 M.R.S.A. § 10301 (1999); and committed securities fraud, in violation of 32 M.R.S.A. § 10201 (1999).

**JURISDICTION**

2. This Court has jurisdiction pursuant to 4 M.R.S.A. § 105 (Supp. 2002) and 32 M.R.S.A. § 10603 (1999).

**PARTIES**

3. Plaintiff State of Maine is a sovereign state. Plaintiff Securities Administrator, who has offices in Gardiner in Kennebec County, Maine, is responsible for enforcing the Act. Plaintiffs bring this action by and through the Attorney General pursuant

to 32 M.R.S.A. §§ 10602(1)(D) and 10603 (1999) and the powers vested in him by 5 M.R.S.A. § 191 (2002) and the common law as the State's chief law enforcement officer.

4. Defendant Richard is an adult individual residing in [REDACTED], [REDACTED]. At all times relevant hereto, Richard was not licensed as a securities broker-dealer or sales representative in the State of Maine. Richard was and is an insurance agent doing business as "Elder Planning Associates."

### **FACTUAL BACKGROUND**

5. From mid-1997 until late 2001, Richard had a contractual relationship with Mid-America Foundation, Inc. ("Mid-America"), under which Richard sold Mid-America's charitable gift annuities ("CGAs") in exchange for a 6-8% commission on sales and other compensation.

6. CGAs are investment contracts, as well as evidence of indebtedness, and thus fit within the statutory definition of securities. 32 M.R.S.A. § 10501(18) (1999). However, at no time were the Mid-America CGAs registered as securities with the Maine Office of Securities.

7. The CGAs, as sold by Richard on behalf of Mid-America, provided for the investor to make an irrevocable gift of cash or securities to Mid-America. Mid-America in turn promised to pay a rate of return to the investor (in the form of periodic payments for the rest of the investor's life) and then transfer the principal to a designated charity upon the investor's death.

8. In fact, the Mid-America CGAs were nothing more than a Ponzi scheme. Mid-America used assets received from investors to make periodic payments to previous investors and to fund Mid-America's Executive Director Robert Dillie's lavish lifestyle, including huge Las Vegas gambling losses.

9. Between August 23, 1999 and January 27, 2000, Richard sold nine Mid-America CGAs to [REDACTED] then an 80-year old retired social worker from [REDACTED]. To purchase these CGAs, [REDACTED] paid a total of approximately \$2,211,000 in cash and securities – 80% of his life savings.

10. At no time did Richard disclose to [REDACTED] that Mid-America was a Ponzi scheme or that [REDACTED]'s CGA investment would be used to pay other investors and to support Mid-America's Executive Director's lifestyle. Moreover, at no time did Richard disclose to [REDACTED] that the CGAs were not registered as securities with the State of Maine or that Richard was not licensed to sell securities in the State of Maine.

11. Mid-America paid Richard approximately \$144,000 in commissions and other compensation for making the sales to [REDACTED].

12. Although [REDACTED] received some periodic payments, the payments ceased in mid-2001. Soon thereafter, the Ponzi scheme collapsed, and [REDACTED]'s entire investment was lost.

### **STATUTORY BACKGROUND**

13. The Revised Maine Securities Act ("the Act") regulates persons who offer, sell, or purchase securities in the State of Maine.

14. The Act prohibits the offer or sale of securities that are not registered in Maine unless the security or the transaction is exempt from registration. 32 M.R.S.A. § 10401 (1999).

15. The Act further prohibits any person from transacting business in Maine as a broker-dealer or sales representative unless licensed or exempt from licensing. 32 M.R.S.A. § 10301(1) (1999).

16. Under the Act, a person shall not, in connection with the offer, sale, or purchase of any security, directly or indirectly: (a) employ any device, scheme, or artifice to defraud; (b) 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; or (c) engage in any act, practice, or course of business that operates as a fraud or deceit upon any person. 32 M.R.S.A. § 10201 (1999).

17. The Securities Administrator may refer violations of the Act to the Attorney General for enforcement, and the Attorney General may initiate a civil action in the Superior Court. 32 M.R.S.A. § 10602(1)(D) (1999).

18. In an enforcement action under the Act, the Court may grant a variety of legal and equitable remedies, including injunctions, civil penalties, restitution to investors and disgorgement. 32 M.R.S.A. § 10603 (1999).

**COUNT I**  
(Sale of Unregistered Securities)

19. The State repeats and realleges paragraphs 1 through 18 as if set forth fully herein.

20. By selling the Mid-America CGAs to [REDACTED] Richard violated the prohibition in 32 M.R.S.A. § 10401 (1999) against offering or selling unregistered securities in Maine.

**COUNT II**  
(Unlicensed Sale of Securities)

21. The State repeats and realleges paragraphs 1 through 20 as if set forth fully herein.

22. By selling Mid-America CGAs to [REDACTED] Richard violated the prohibition in 32 M.R.S.A. § 10301 (1999) against transacting business in Maine as a broker-dealer or sales representative without a license.

**COUNT III**  
(Securities Fraud)

23. The State repeats and realleges paragraphs 1 through 22 as if set forth fully herein.

24. By omitting to state material facts necessary to make the statements made, in light of the circumstances under which they were made, not misleading, and by engaging in acts, practices, or a course of business that operated as a fraud or deceit upon [REDACTED] [REDACTED] in connection with the offer and sale of securities, Richard violated 32 M.R.S.A. § 10201 (1999).

**REQUEST FOR RELIEF**

WHEREFORE, the State requests that this Honorable Court grant the following relief:

1. An order requiring Richard to make full restitution to [REDACTED] by returning all monies to him plus interest;
2. An order requiring Richard to disgorge all commissions or other compensation he received in connection with the sale of Mid-America CGAs to [REDACTED] [REDACTED];
3. An injunction prohibiting Richard from offering or selling unregistered securities in the State of Maine, or transacting business as a broker-dealer or sales representative in the State of Maine unless licensed or exempt from licensing;
4. A civil penalty of \$10,000 against Richard for each violation of the Act; and

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

DATED: June 19, 2003

Respectfully submitted,

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