

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

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CLERK US DISTRICT COURT
WESTERN DISTRICT OF TEXAS
BY *AW*
DEPUTY

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

vs.

SENEN POUSA and
INVESTMENT INTELLIGENCE CORPORATION
PTY LLC

Defendants,

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COMPLAINT

A12CV0863 LY

I. Summary

1. From at least 2011 through the present, Defendant Senen Pousa, individually and as the agent of Defendant Investment Intelligence Corporation, d/b/a ProphetMax (“IIC”), solicited investors to provide IIC with discretionary authority to engage in leveraged foreign currency (“forex”) transactions on their behalf.

2. During the relevant period, IIC and Pousa have accepted at least \$53,000,000 from an estimated 1,500 investors worldwide—including investors in the United States, Australia, the United Kingdom, Canada, Germany, the Netherlands and Singapore. They have done so by using emails and sophisticated internet webcasts, and webinars sent directly to investors via their websites www.investmentintelligence.com.au and www.prophetmax.com. Pousa and IIC have also made personal solicitations from both the United States and Australia.

IIC, through Pousa, has also solicited investors for his fraudulent scheme through a third-party
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website called The Elevation Group, Inc. (“EVG”), operating out of Austin, Texas. Pousa is believed to be continuing to solicit investor funds both through his websites and through solicitations to individual investors.

3. IIC and Pousa have misrepresented material facts and have failed to disclose other material facts in their solicitations to actual and prospective investors, which operated as a fraud or deceit upon them, in violation of Section 17(a) of the Securities Act of 1933 (the “Securities Act”) and Section 10(b) of the Securities Exchange Act of 1934 (the “Exchange Act”), including: (i) falsely claiming that investor funds would be managed by his group of six “proprietary traders,” who work 24 hours a day trading investors’ funds; (ii) fraudulently promising investors a monthly return of 9%; (iii) falsely promising investors that IIC’s managed forex trading would risk no more than 3% of an investor’s capital per transaction; and (iv) falsely promising that IIC’s traders would manage the risk inherent to forex trading by limiting trading volume to three to four trades per month. In addition, Pousa and IIC sold securities in unregistered offerings, in violation of Section 5 of the Securities Act.

III. Jurisdiction and Venue

4. The Court has jurisdiction over this action under Section 20(d) and 22(a) of the Securities Act [15 U.S.C. § 77t(d) and § 77v(a)], and Sections 21(d), 21(e) and 27 of the Exchange Act [15 U.S.C. §§ 78u(d), 78u(e) and 78(aa)]. Venue is proper because many of the transactions, acts, practices and courses of business described below occurred within the Western District of Texas.

IV. Defendants

5. Investment Intelligence Corporation PTY LTD (“IIC”), formerly known as Pousa Investments PTY LTD, is an Australian corporation (ACN #101616371) located in Brisbane,

Australia. IIC also maintains operations in Bellingham, Washington. IIC offers an internet investment service marketed under the trade name ProphetMax that purports to provide individual investors access to “high performing money managers” throughout the world. On July 26, 2012, Australian authorities obtained an interim order freezing certain IIC funds attributable to the investment scheme.

6. Senen Pousa resides in Australia and is IIC’s principal and registered agent. Throughout the relevant period, Pousa was in charge of handling the day-to-day operations of and solicitation of investors for IIC.

V. Facts

7. Since at least 2010, Pousa and IIC have been promoting investment programs to U.S. investors. Pousa’s program is divided into two phases. In the first phase, which Pousa characterizes as an investment “education” program, investors are first instructed to set passive income goals, and are then told how they can meet those goals using Pousa’s managed investment programs. In reality, the “education” program is a pretext through which Pousa markets his managed investment programs. Once the “education” program is completed, investors are encouraged to open a discretionary account through which Pousa and IIC will actively trade their funds.

8. Pousa and IIC offer two managed investment “services”: ProphetMax Managed FX (“PMFX”) and ProphetMax Pro (“PMPro”). Pousa markets both programs as a way for investors to create “unlimited” passive income. Pousa claims that he created these services to give individual investors with relatively modest funds access to his elite group of proprietary traders.

9. In February 2012, Pousa began promoting IIC and ProphetMax through a series of webcasts and webinars that were made available to EVG members through the EVG website. EVG is a widely-followed investment blog that has thousands of members. EVG operates out of Austin, Texas. While most EVG members are located in the U.S., it has subscribers from across the globe.

10. The EVG presentation consisted of two parts. The first part was an interview with Pousa from Brisbane, Australia. The interview was conducted by Mike Dillard, EVG's President, and Robert Hirsch, EVG's CEO. The second part was a webinar and Q&A session with Pousa. This session took place in Austin, TX, and was broadcast live to EVG's member. The EVG presentation caused interest in Pousa's program to explode. Over 12,000 EVG members registered to receive access to the webinar.

11. In the EVG presentation and otherwise in the course of communicating with investors, Pousa represented that PMFX was a foreign-currency-trading service that: (a) used "six of the world's best" forex traders who traded currencies 24 hours a day; (b) turned every \$10,000 invested into just over \$281,000 from October 2007 to January 2012, with average net returns of 78 percent per year and 6.8 percent per month; and (c) provided investors a low-risk trading strategy because ProphetMax made only a few select trades each month with no more than 3% of an investors' capital at risk in any given trade. Pousa claimed that "this is the way that the Wall Street elite play the game."

12. Pousa also claimed that investors would have access to his "millionaire's circle," through which every one to two weeks investors would be introduced to one of Pousa's millionaire investors. As part of this service, these millionaires were to give investors free tips

on how to make thousands of dollars “without risking any capital.” But Pousa never made any of the promised introductions.

13. Pousa also posted a brochure on IIC’s website describing PMFX. Pousa claimed that “since October 2007, the institutional Proprietary Trading Group has turned every \$10,000 invested into \$284,958,” and that ProphetMax has been “profitable” every year for the past eight years. Pousa also claimed that these returns had been verified by an Australian Market Research Analyst named Robert Geriege. Further, Pousa claimed that over the last five years he and his research team “have ranked number one in the world and outperformed 15,137 Morningstar Funds and 195 investment newsletter recommendation services monitored by MarketWatch.”

14. Pousa claimed that the investment performance of his proprietary trading group was independently verified. To support this claim, he produced a heavily redacted letter referencing KPMG as “Auditor.” The letter purports to confirm that Pousa’s trading group that “[has] indeed turned every \$10,000 invested in October 2007 into \$281,082 as of January 31st 2012.” The letter also represents that the trading group has met rigorous compliance and due diligence standards.

15. Pousa claimed PMPro used a proprietary algorithm called ProphetMax Quant (“PMQuant”). He stated that the PMQuant algorithm was developed by six programmers whom he personally oversaw, and that “most of Wall Street’s trading” is done by his PMQuant programmers. He claimed that PMQuant generated 19.1 percent returns from August 2011 to February 2012, and was “profitable 71 percent of the time.” Pousa further claimed that algorithmic forex trading like the type offered by PMQuant was the province of “Ivy League smart money.”

16. Pousa represented that the proprietary traders he was working with would receive a “performance fee” of 25% for any profits they made for investors. He said he would make no commission, and even claimed to have never taken a commission for any of his products.

17. Pousa claimed that his business did not need an Australian Financial Services License because he does not give personal financial or investment advice and does not manage or invest money.

18. Pousa offered a discounted rate to EVG members to participate in IIC’s forex trading programs. EVG members could purchase the PMFX service for \$1997, PMPro for \$1297, or both services at a “bundled” price of \$3000.

19. A significant number of EVG members signed up for ProphetMax educational programs following the webcasts. According to Pousa, so many new members joined ProphetMax that IIC’s merchant account was disabled as a result of the transactional volume of the EVG members’ purchase of ProphetMax subscriptions. To date, over 1,500 people have invested in Pousa’s managed-investment programs.

20. Investors who wanted to invest in Pousa’s managed-investment program were directed to the section of the ProphetMax website containing the required account opening documents, including a power of attorney that authorizes ProphetMax Managed FX to buy and sell foreign currencies on behalf of the accountholder.

21. The completed documents were sent to IIC’s customer service department in Bellingham, WA, where they were processed by IIC’s customer support staff.

22. Most investors funded their PMFX accounts through wire transfers to an account in the Netherlands. Wire transfers were processed through the Federal Reserve Bank’s Fedwire

system. Title to the funds passed in the United States, when the recipient bank's correspondent account in the United States was credited.

23. In May 2012, investors learned that Pousa's offering was a massive fraud. Around May 17, 2012, investors who had given money to Pousa's proprietary trading group logged into their accounts at IB Capital and discovered that the accounts had lost approximately 63% of their value. IB Capital account statements showed that, contrary to the low-risk, low-volume trading strategy pitched by Pousa—in which no more than 3% of an investor's capital would be at risk—approximately 200 trades had occurred over the two days preceding the loss.

24. Roughly a week after the loss, Pousa held a webinar where he attempted to explain the losses. On the webinar, Pousa was joined by an individual Pousa introduced as Kevin Clarke. Clarke is employed by a forex trading firm called Global Forex Management ("GFM"). GFM's forex trading services are available to any investor who can meet the minimum investment threshold, which since early 2011 has been as low as \$10,000.

25. On the webinar, Pousa revealed that Clarke—not Pousa's proprietary trading group—was responsible for trading the investor accounts. In fact, Pousa had known this at least Fall 2011, when he had engaged GFM to trade the PMFX accounts. Pousa and Clarke together explained that the 63% loss was the result of a trading error by Clarke in entering the number of contracts to be traded in one certain transaction. Pousa and Clarke did not explain why the 3% risk threshold was exceeded by over 20 times.

26. As a follow-up to the webinar, Pousa provided a white paper to investors entitled "Global Forex Management Response to Trading Losses for the Week Ending Friday May 18th 2012." The white paper reiterated that Clarke had made an error in entering the volume of contracts, and further claimed that the losses were compounded when Clarke entered another

large trade in an unsuccessful attempt to recoup the losses caused by his trading error. Neither the white paper nor Pousa ever explained how this so-called “double up to catch up” strategy comported with the low-risk strategy advertised by Pousa. The white paper went on to encourage investors to add more capital to their accounts in order to “recoup the losses faster,” and characterized the profit potential going forward as “unlimited.”

27. As the webinar and subsequent white paper show, Pousa and IIC misled investors. Pousa does not have a proprietary trading group, and the historical returns touted by Pousa were bogus. The low-risk, low-volume trading strategy marketed by Pousa was likewise fabricated.

28. Pousa lied to investors when he told them that the nonexistent historical performance had been audited. The letter that he produced to investors is a forgery.

29. Finally, Pousa lied to investors when he told them that IIC did not need a financial services license. The Australian Securities and Investments Commission recently sued Pousa and IIC for operating without a license. *See* <http://www.asic.gov.au/asic/asic.nsf/byheadline/12-175MR+ASIC+freezes+suspect+funds+held+by+unlicensed+financial+mentoring+company?openDocument>.

FIRST CLAIM

Violation of Section 10(b) of the Exchange Act and Rule 10b-5 thereunder

30. Plaintiff Commission incorporates paragraphs 1 through 29 of this Complaint by reference.

31. Defendants, directly or indirectly, singly or in concert with others, in connection with the purchase and sale of securities, by use of the means and instrumentalities of interstate commerce and by use of the mails have: (a) employed devices, schemes and artifices to defraud; (b) made untrue statements of material facts and omitted to state material facts necessary in

order to make the statements made, in light of the circumstances under which they were made, not misleading; and (c) engaged in acts, practices and courses of business which operate as a fraud and deceit upon purchasers, prospective purchasers and other persons.

32. As a part of and in furtherance of their scheme, Defendants, directly and indirectly, prepared, disseminated or used contracts, written offering documents, promotional materials, investor and other correspondence, and oral presentations, which contained untrue statements of material facts and misrepresentations of material facts, and which omitted to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading, including those set forth in Paragraphs 1 through 18 above.

33. Defendants made the referenced misrepresentations and omissions knowingly or with severe recklessness regarding the truth.

34. By reason of the foregoing, Defendants have violated and, unless enjoined, will continue to violate the provisions of Section 10(b) of the Exchange Act [15 U.S.C. § 78j(b)] and Rule 10b-5 thereunder [17 C.F.R. § 240.10b 5].

SECOND CLAIM

Violations of Section 17(a) of the Securities Act

35. Plaintiff Commission incorporates paragraphs 1 through 29 of this Complaint by reference.

36. Defendants, directly or indirectly, singly, in concert with others, in the offer and sale of securities, by use of the means and instruments of transportation and communication in interstate commerce and by use of the mails, have: (a) employed devices, schemes or artifices to defraud; (b) obtained money or property by means of untrue statements of material fact or

omissions to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; and (c) engaged in transactions, practices or courses of business which operate or would operate as a fraud or deceit.

37. As part of and in furtherance of this scheme, Defendants, directly and indirectly, prepared, disseminated or used contracts, written offering documents, promotional materials, investor and other correspondence, and oral presentations, which contained untrue statements of material fact and which omitted to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading, including those statements and omissions set forth in paragraph 1 through 18 above.

38. Defendants made the referenced misrepresentations and omissions knowingly or with severe recklessness with regard for the truth. Defendants were also negligent in their actions regarding the representations and omissions alleged herein.

39. By reason of the foregoing, Defendants have violated, and unless enjoined, will continue to violate Section 17(a) of the Securities Act [15 U.S.C. § 77q(a)].

THIRD CLAIM

Violations of Section 5(a) and 5(c) of the Securities Act

40. Plaintiff Commission incorporates paragraphs 1 through 29 of this Complaint by reference.

41. Defendants, directly or indirectly, singly and in concert with others, have been offering to sell, selling and delivering after sale, certain securities, and have been, directly and indirectly: (a) making use of the means and instruments of transportation and communication in interstate commerce and of the mails to sell securities, through the use of written contracts, offering documents and otherwise; (b) carrying and causing to be carried through the mails and

in interstate commerce by the means and instruments of transportation, such securities for the purpose of sale and for delivery after sale; and (c) making use of the means or instruments of transportation and communication in interstate commerce and of the mails to offer to sell such securities.

42. The Defendants offered and sold securities to the public through a general solicitation of investors. No registration statements were ever filed with the Commission or otherwise in effect with respect to these securities.

43. By reason of the foregoing, Defendants have violated and, unless enjoined, will continue to violate Sections 5(a) and 5(c) of the Securities Act [15 U.S.C. §§ 77e(a) and 77e(c)].

REQUEST FOR RELIEF

Plaintiff respectfully requests that this Court:

I.

Enter a preliminary injunction enjoining Defendants from further violations of Sections 5(a), 5(c) and 17(a) of the Securities Act [15 U.S.C. §§ 77e(a), 77e (c) and 77q(a)], Section 10(b) of the Exchange Act [15 U.S.C. § 78j(b)] and Rule 10b-5 thereunder, [17 C.F.R. § 240.10b-5].

II.

Permanently enjoin Defendants and their agents, servants, employees, attorneys and all persons in active concert or participation with them who receive actual notice of the injunction by personal service or otherwise, and each of them, from future violations of Sections 5(a), 5(c) and 17(a) of the Securities Act [15 U.S.C. §§ 77e(a), 77e (c) and 77q(a)], Section 10(b) of the Exchange Act [15 U.S.C. § 78j(b)] and Rule 10b-5 thereunder, [17 C.F.R. § 240.10b-5].

III.

Enter an order requiring a full and accurate accounting and an interim freeze of all assets of Defendants until a full and accurate accounting can be made of all investor monies raised in this scheme and a determination made as to the disposition of those assets.

IV.

Enter an order that Defendants be restrained and enjoined from destroying, removing, mutilating, altering, concealing or disposing of, in any manner, any of their books and records or documents relating to the matters set forth in the Complaint, or the books and records and such documents of any entities under their control, until further order of the Court;

V.

Order Defendants to disgorge an amount equal to the funds and benefits obtained as a result of the violations alleged, plus prejudgment interest on that amount.

VI.

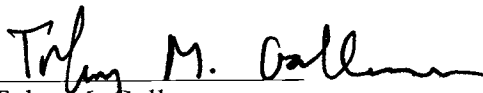
Order civil penalties against Defendants under Section 20(d) of the Securities Act, Section 21(d)(3) of the Exchange Act for violations of the federal securities laws as alleged herein; and

VII.

Award any other relief to which the Commission may be entitled.

Dated: September 18, 2012.

Respectfully submitted,



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