

STATE OF MAINE
CUMBERLAND, ss.

SUPERIOR COURT
CIVIL ACTION
DOCKET NO. CV-03-390

STATE OF MAINE and)
SECURITIES ADMINISTRATOR,)
)
Plaintiffs,)
)
v.)
)
CHARLES S. CLARK and CLARK &)
STUART, INC.,)
)
Defendants.)

COMPLAINT

INTRODUCTION

1. The State of Maine and Securities Administrator (hereinafter collectively referred to as “the State”) bring this action against Charles S. Clark (“Clark”) and Clark & Stuart, Inc. (“C&S”) for violations of the Revised Maine Securities Act, 32 M.R.S.A. §§ 10101-10713 (1999 and Supp. 2002), in that they engaged in acts that operated as a fraud or a deceit upon their clients, [REDACTED] and [REDACTED].

JURISDICTION

2. This Court has jurisdiction pursuant to 32 M.R.S.A. §§ 10602-10603 (1999 and Supp. 2002).

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

4. Defendant Clark is an adult individual residing in [REDACTED]. At all times relevant hereto, Clark was President of C&S.

5. Defendant C&S is a Maine corporation with its principal place of business in Portland, Maine. At all times relevant hereto, C&S was registered as an investment adviser with the United States Securities and Exchange Commission and had filed the proper notice under 32 M.R.S.A. § 10305-A (1999) to transact business as an investment adviser in Maine.

FACTUAL BACKGROUND

6. C&S served as the investment adviser for [REDACTED] and [REDACTED] [REDACTED] from the summer of 1998 until early 2001. In providing investment adviser services to the Alleys, C&S acted exclusively through Clark. With respect to all conduct set forth in this Complaint, Clark acted as an officer, employee, and agent of C&S.

7. On or about February 11, 2000, Clark visited the [REDACTED] home in [REDACTED] Maine to provide investment adviser services. During the course of this visit, [REDACTED] [REDACTED] disclosed to Clark that she had a large sum of cash that she had been saving at the house.

8. Clark advised the [REDACTED] that they should invest the money, which totaled approximately \$10,000, and represented that he would put it in a money market account earning 6% interest. Clark further advised the [REDACTED] that, for safety purposes, they

should turn the money over to him by the end of the day. After Clark left, the [REDACTED] discussed the matter and decided to follow Clark's advice.

9. During subsequent phone conversations, Clark arranged for the [REDACTED] to bring the money to C&S's office in Portland after business hours that evening. At Clark's instruction, the [REDACTED] used the back entrance of the building when they arrived at C&S's office.

10. The [REDACTED] met with Clark, who appeared to be the only other person at the C&S office. Pursuant to their earlier discussion at the [REDACTED]' home, the [REDACTED] turned \$10,000 in cash over to Clark. When [REDACTED] [REDACTED] asked Clark for a receipt, Clark responded that he could not give her one because everything in the office was locked up. Because the [REDACTED] trusted Clark, they left the \$10,000 in his possession without receiving a receipt.

11. When the \$10,000 investment did not appear on the [REDACTED]'s monthly account statements, [REDACTED] [REDACTED] questioned Clark about the status of the investment. Clark responded that investments sometimes take a long time to appear on statements, and that the [REDACTED]' \$10,000 investment would eventually appear on their statement. When the \$10,000 investment still was not reflected on the [REDACTED] June, 2000 statement, the [REDACTED] again questioned Clark. Much to their surprise, Clark denied having received the \$10,000 from the [REDACTED]

12. To date, the \$10,000 turned over by the [REDACTED] to Clark in February of 2000 has not been invested for them as Clark had promised. Despite demand, Clark has refused to return the \$10,000 to the [REDACTED].

STATUTORY BACKGROUND

13. The Revised Maine Securities Act (“the Act”) regulates persons acting as investment advisers or investment adviser representatives in the State of Maine.

14. The Act prohibits investment advisers and their employees from engaging “in any act, practice, or course of business which operates . . . as a fraud or deceit upon any client.” 32 M.R.S.A. § 10203 (1999).

15. 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).

16. 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

(Fraud or Deceit by an Investment Adviser or an Investment Adviser’s Employee)

17. The State repeats and realleges paragraphs 1 through 16 as if set forth fully herein.

18. By misrepresenting to the [REDACTED] that Clark would invest the \$10,000 on their behalf, and instead converting the money to Clark’s own use, Clark and C&S engaged in acts, practices, and a course of business that operated as a fraud or deceit upon the [REDACTED] all in violation of 32 M.R.S.A. § 10203 (1999).

REQUEST FOR RELIEF

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

1. An order requiring Clark and C&S to make full restitution to the [REDACTED] by returning all monies to them plus interest; and
2. Such other and further relief as this Court deems appropriate.

DATED: July 7, 2003

Respectfully submitted,

G. STEVEN ROWE
Attorney General

/s/ Michael J. Colleran
MICHAEL J. COLLERAN
Assistant Attorney General
6 State House Station
Augusta, ME 04333-0006
Tel. (207) 626-8800
Bar. No. 9247
Attorney for Plaintiffs