

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

BURTON W. WIAND, as Receiver for
OASIS INTERNATIONAL GROUP, LTD.;
OASIS MANAGEMENT LLC; AND
SATELLITE HOLDINGS COMPANY,

Case No.: 8:20-cv-863-T-60SPF

Plaintiff,

v.

RAYMOND P. MONTIE, III,

Defendant.

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**DEFENDANT RAYMOND P. MONTIE, III'S ANSWER AND
AFFIRMATIVE DEFENSES TO PLAINTIFF'S AMENDED COMPLAINT AND
DEMAND FOR TRIAL BY JURY**

Defendant Raymond P Montie, III (hereinafter "Montie"), pursuant to Rule 8(b), Federal Rules of Civil Procedure, hereby answers and denies each and every allegation not specifically admitted herein of the Amended Complaint filed on July 7, 2020 (Doc. 16) by Plaintiff Burton W. Wiand, as Receiver. Numbered paragraphs in this Answer will correspond to the numbered paragraphs of the Amended Complaint.

INTRODUCTION AND ANSWER

1. Admitted.
2. Admitted that paragraph two sets forth allegations from CFTC Action. The allegations referencing the conduct of Montie are denied.
3. Denied that a default was entered against Montie. Remaining allegations are admitted.

4. Admitted.

5. Montie lacks knowledge or information sufficient to form a belief that there is presently an ongoing criminal investigation into Montie by the U.S. Attorney's Office and, therefore, denies. The allegations concerning Joseph S. Anile (hereinafter "Anile") and Michael J. DaCorta (hereinafter "DaCorta") are admitted.

6. The last sentence is denied. The remaining allegations are admitted.

7. Montie lacks knowledge and information to form a belief about the truth of the allegation in the first sentence. Denies the remaining allegations.

8. The first sentence of this paragraph contains legal conclusions to which no response is required, however, to the extent a response is deemed necessary, Montie lacks knowledge or information sufficient to form a belief about the truth of this allegation and, therefore, denies.

9. Montie lacks knowledge or information sufficient to form a belief about the truth of this allegation and, therefore, denies.

JURISDICTION AND VENUE

10. Admitted.

11. Admitted.

12. Admitted as to the first sentence. Montie lacks knowledge or information sufficient to form a belief about the truth of the remaining allegations and, therefore, denied.

13. Admitted.

PARTIES AND RELATED INDIVIDUALS AND ENTITIES

14. Admitted.

15. The last sentence is admitted. Remaining allegations are denied.

16. Montie lacks knowledge or information sufficient to form a belief about the truth as to the last two sentences and, therefore denies. Remainder of the paragraph is denied.

17. Admitted that the Receiver now both owns and controls OIG. As to the remaining allegations, Montie lacks knowledge or information sufficient to form a belief about the truth and, therefore, denies.

18. Admitted that DaCorta controlled Oasis Management and its bank accounts. As to the remaining allegations, Montie lacks knowledge or information sufficient to form a belief about the truth of this allegation and, therefore, denies.

19. Admitted that the Consolidated Order transferred control of Oasis Management to Receiver, who now owns and controls Oasis Management. Montie lacks knowledge or information sufficient to form a belief about the truth of the remaining allegations and, therefore, denies.

20. Montie lacks knowledge or information sufficient to form a belief about the truth of the allegations and, therefore, denies.

21. Montie lacks knowledge or information sufficient to form a belief about the truth of this allegation and, therefore, denies.

22. The last sentence is denied. As to the remaining allegations, Montie lacks knowledge or information sufficient to form a belief about the truth of the remaining allegations and, therefore, denies.

23. Montie lacks knowledge or information sufficient to form a belief about the truth of this allegation and, therefore, denies.

24. Montie lacks knowledge or information sufficient to form a belief about the truth of this allegation and, therefore, denies.

25. Denied.

26. Montie lacks knowledge or information sufficient to form a belief about the truth of this allegation and, therefore, denies.

27. This paragraph contains legal conclusions to which no response is required, however, to the extent a response is deemed necessary, this paragraph is denied.

28. Montie lacks knowledge or information sufficient to form a belief about the truth of this allegation and, therefore, denies.

29. Denial that Montie defrauded investors. As to remaining allegations, Montie lacks knowledge or information sufficient to form a belief about the truth of this allegation and, therefore, denies.

30. Montie lacks knowledge or information sufficient to form a belief about the truth of this allegation and, therefore, denies.

31. Denied.

32. Montie lacks knowledge or information sufficient to form a belief about the truth of this allegation and, therefore, denies.

33. Montie lacks knowledge or information sufficient to form a belief about the truth of this allegation and, therefore, denies.

34. Montie lacks knowledge or information sufficient to form a belief about the truth of this allegation and, therefore, denies.

35. Montie lacks knowledge or information sufficient to form a belief about the truth of this allegation and, therefore, denies.

36. Montie lacks knowledge or information sufficient to form a belief about the truth of this allegation and, therefore, denies.

37. Denied.

38. Montie lacks knowledge or information sufficient to form a belief about the truth of this allegation and, therefore, denies.

39. Montie lacks knowledge or information sufficient to form a belief about the truth of this allegation and, therefore, denies.

40. Montie lacks knowledge or information sufficient to form a belief about the truth of this allegation and, therefore, denies.

41. Denies the following, "Montie, as the Oasis Entities' chief salesperson, conspired with others to lure new investors into the scheme." Montie lacks knowledge or information sufficient to form a belief about the truth of all other allegations in this paragraph and, therefore, denies.

42. Montie lacks knowledge or information sufficient to form a belief about the truth of this allegation and, therefore, denies.

43. Montie lacks knowledge or information sufficient to form a belief about the truth of this allegation and, therefore, denies.

44. Montie lacks knowledge or information sufficient to form a belief about the truth of this allegation and, therefore, denies.

45. Montie lacks knowledge or information sufficient to form a belief about the truth of this allegation and, therefore, denies.

46. Montie lacks knowledge or information sufficient to form a belief about the truth of this allegation and, therefore, denies.

47. Montie lacks knowledge or information sufficient to form a belief about the truth of this allegation and, therefore, denies.

48. Montie lacks knowledge or information sufficient to form a belief about the truth of this allegation and, therefore, denies.

49. Montie lacks knowledge or information sufficient to form a belief about the truth of this allegation and, therefore, denies.

50. Montie lacks knowledge or information sufficient to form a belief about the truth of this allegation and, therefore, denies.

51. This paragraph contains legal conclusions to which no response is required, however, to the extent a response is deemed necessary, Montie lacks information sufficient to form a belief about the truth of the allegation and, therefore, denies the allegation.

52. Denied.

53. Montie lacks knowledge or information sufficient to form a belief about the truth of this allegation and, therefore, denies.

54. Montie admits the second sentence contains a quote from Anile's Plea Agreement. Montie denies the last sentence in that any statement by Montie were not known to be false when made.

55. Montie admits the reference to the filing of the criminal case against DaCorta. Montie lacks knowledge or information sufficient to form a belief about the truth that the criminal investigation against him remains open and, therefore, denies.

56. Montie admits that he was affiliated with a multilevel marketing company. The remaining allegations are denied.

57. Montie lacks knowledge or information sufficient to form a belief about the truth of this allegation and, therefore, denies.

58. Montie denies the first sentence. As to the remaining allegation, Montie lacks knowledge or information sufficient to form a belief about the truth of this allegation and, therefore, denies.

59. Denied.

60. Montie lacks knowledge or information sufficient to form a belief about the truth of this allegation and, therefore, denies.

61. Denied.

62. Denied.

63. Admitted that Exhibit F contains a transcript of a conference call on October 30, 2018. As to the remaining allegations, Montie lacks knowledge as to plaintiff's meaning of the word "salespeople" and the words "they organized". Montie denies the following sentences, "Haas described how his mass contact with investors produced more

investments overnight" and "As part of this contest, they advise that OIG would guarantee a 1.5% return in the next month, which should be emphasized to lure investors.”

64. Admitted that the quotations from the email of March 2018 are accurately referenced. Montie denies the remaining allegations.

65. Montie lacks knowledge or information sufficient to form a belief about the truth of the allegations in the last sentence and, therefore, denies.

66. This paragraph contains legal conclusions to which no response is required, however, to the extent a response is deemed necessary, Montie lacks knowledge or information sufficient to form a belief about the truth of the allegations and, therefore, denies.

67. Denied that Montie was a perpetrator of "this scheme". As to the remaining allegations, Montie lacks knowledge or information sufficient to form a belief about the truth of the allegations and, therefore, denies.

68. This paragraph contains legal conclusions to which no response is required, however, to the extent a response is deemed necessary this paragraph is denied.

69. Montie lacks knowledge or information sufficient to form a belief about the truth of the allegations in this paragraph and, therefore, denies.

70. Montie denies the first sentence. As to the remaining allegations, Montie lacks knowledge or information sufficient to form a belief about the truth of the allegations and, therefore, denies.

71. Montie lacks sufficient knowledge or information to form a belief about the truth of the allegations and, therefore, denies.

COUNT I

72. Montie realleges and incorporates by reference, his responses to the allegations in paragraphs one through seventy-one.

73. Montie lacks sufficient knowledge or information to form a belief about the truth of the allegations and, therefore, denied.

74. Denied as to Montie. Montie lacks sufficient knowledge or information to form a belief about the truth of the allegations and, therefore, denied as to other defendants.

75. Denied as to Montie. Montie lacks sufficient knowledge or information to form a belief about the truth of the allegations and, therefore, denied as to other defendants.

76. Denied as to Montie. Montie lacks sufficient knowledge or information to form a belief about the truth of the allegations and, therefore, denied as to other defendants.

77. Denied as to Montie. Montie lacks sufficient knowledge or information to form a belief about the truth of the allegations and, therefore, denied as to other defendants.

78. Denied as to Montie. Montie lacks sufficient knowledge or information to form a belief about the truth of the allegations and, therefore, denied as to other defendants.

79. Denied as to Montie. Montie lacks sufficient knowledge or information to form a belief about the truth of the allegations and, therefore, denied as to other defendants.

80. Denied.

81. Denied as to Montie. Montie lacks sufficient knowledge or information to form a belief about the truth of the allegations and, therefore, denied as to other defendants.

COUNT II

82. Montie realleges and incorporates by reference to his responses to the allegations in paragraphs one through seventy-one of the Amended Complaint.

83. Montie lacks sufficient knowledge or information to form a belief about the truth of the allegations and, therefore, denied.

84. Montie lacks sufficient knowledge or information to form a belief about the truth of the allegations and, therefore, denied.

85. Montie lacks sufficient knowledge or information to form a belief about the truth of the allegations and, therefore, denied.

86. Montie lacks sufficient knowledge or information to form a belief about the truth of the allegations and, therefore, denied.

87. Montie lacks sufficient knowledge or information to form a belief about the truth of the allegations and, therefore, denied.

88. Montie lacks sufficient knowledge or information to form a belief about the truth of the allegations and, therefore, denied.

Count III

89. Montie realleges and incorporates by reference his responses to the allegations in paragraphs one through seventy-one of the Amended Complaint.

90. Admitted.

91. Lacks knowledge and, therefore, denies the following "OIG also received co-mingled investor money from the other Oasis Entities,". Montie denies the remaining allegations.

92. Denied.

93. Denied.

94. Denied.

95. Denied.

96. Denied.

97. Denied.

Count IV

98. Montie realleges and incorporates by reference his responses to the allegations in paragraphs one through seventy-one of the Amended Complaint.

99. Montie denies that he owed fiduciary duties to "Other Entities as their owners, directors and officers." The remaining allegations are admitted.

100. Admitted.

101. Admitted.

102. The allegations contained in the first sentence are denied if the plaintiff is alleging that "They" includes Montie. The second sentence is denied.

103. Denied.

104. Denied.

GENERAL DENIAL

Defendant Montie denies all remaining allegations in the Amended Complaint not specifically admitted above (including, but not limited to, any allegations contained in the headings *ad damnum* or "WHEREFORE" clauses in Plaintiff's Amended Complaint), and respectfully requests that judgment be entered in favor of defendant Montie.

AFFIRMATIVE DEFENSES TO PLAINTIFF'S AMENDED COMPLAINT

First Affirmative Defense
All Counts, Statute of Limitations

1. The statute of limitations for Counts Two, Three, and Four is four years. As to Count One, the savings clause of section 726.110(1) applies only to causes of action under section 726.105(1)(a). Section 726.110(2) provides that the statute of limitations is four years for claims based on section 726.105(1)(b) or 726.106(1).

2. Insofar as all claims except that alleged pursuant to section 726.105(1)(a) are based on conduct that occurred before July 7, 2016, the claims are barred.

Second Affirmative Defense
Count One, Reasonably Equivalent Value

3. The bulk of any transfers made to Montie constituted the return of his initial investment.

4. Montie had no knowledge of the fraudulent activities of DaCorta and Anile, and no knowledge of facts or circumstances that would have caused an ordinarily prudent person to make further inquiry.

5. Montie accepted the transfers in good faith, and insofar as they constituted a return of his investment, he gave reasonably equivalent value.

Third Affirmative Defense
Count Two, Payment for Benefit Conferred

6. A portion of the transfers constituted return of Montie's initial investment, and so constitutes payment for a benefit previously conferred.

Fourth Affirmative Defense
Count Three, Waiver

7. DaCorta and Anile knew that they operated the Oasis Entities as a Ponzi scheme.

8. DaCorta and Anile made misrepresentations to Montie that Montie believed to be true.

9. Any alleged failure of Montie to perform his fiduciary duties to OIG was attributable to misrepresentations made to him by DaCorta and Anile.

10. DaCorta and Anile waived a claim to breach of Montie's fiduciary duty.

Fifth Affirmative Defense
Count Three, No Fiduciary Relationship with Oasis Entities Other Than OIG

11. There is no express fiduciary relationship between Montie and the Oasis Entities.

12. Montie did not undertake any fiduciary duties toward the Oasis Entities other than OIG.

13. The other actors in the alleged Ponzi scheme, DaCorta, Anile, and the Oasis Entities other than OIG, were not the weaker parties in their relationship. They were not dependent on Montie.

14. There was no implied fiduciary relationship between Montie and the Oasis Entities other than OIG.

Sixth Affirmative Defense
Count Four, No Actual Knowledge

15. Montie had no actual knowledge of the underlying fraud or breach of fiduciary duty allegedly perpetrated by DaCorta and Anile.

DEMAND FOR JURY TRIAL

Defendant Montie respectfully demands a jury trial as to all claims and issues so triable in the Plaintiff's Amended Complaint.

Respectfully submitted on November 16, 2020.

**LAW OFFICES OF
HORWITZ & CITRO, P.A.**

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on November 16, 2020, I electronically filed the foregoing with the Clerk of the Court by using the CM/ECF system which will send a notice of electronic filing to Jared J. Perez at jperez@wiandlaw.com , Lawrence Dougherty at ldougherty@wiandlaw.com , John W. Waechter at jwaechter@efleagl.com ,

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s/ Mark L. Horwitz _____
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