

January 29th, 2013

Dear Investor,

It has been a while since I have last written you, for which I apologize. You should know that three months ago I submitted a Motion to the Court to dismiss the lawsuit upon realizing through my own forensic audit of the SEC's and the receiver's submissions to the court that the United States Securities and Exchange Commission ("SEC"), which is a federal regulatory agency, used a wholly unacceptable and unorthodox method which allowed it to show false financial information to the court. The method SEC used is not recognized by any other governmental agencies, or by the American Institute of Certified Public Accountants, or by the Financial Accounting Standards Board. It's not even accepted by the SEC, but apparently the Enforcement Division of the SEC makes up its own rules as it goes.

In my motion, I outlined how my research demonstrated, irrefutably, that the SEC had fully misled the court on the income distributions of the funds to fund members. Basically, my motion presented a court challenge to the SEC, and in my motion, I showed that the SEC had used the following highly improper formula in its calculations of fund distributions, and that they knew they did this, or certainly should have known (they're the SEC after all), and that their lawsuit was based on a false pretense. Their formula to calculate the member distributions for the funds, and which I found and identified, was:

"Distributions = Distributions + Member Capital Reinvestments"

As every school child learns at a young age, "A" DOES NOT = "A + B" (unless "B" = "0", which it did not). Buried deep within the SEC's lengthy reply to my motion (if you can't use facts "dazzle with alot of bull****"), pretty hard to find for most people, including a Judge, and only when were challenged directly in a court of law on this matter, is the SEC's admission that they DID use this highly misleading formula. This formula CANNOT EVER produce accurate results of the financial performance of a company, which they knew. They did not let the court know, however, what the results were their formula - which was to overstate the historical distributions of IPF and SPF by more than 50% in the lawsuit. Using this formula, invalid and nowhere else to be found in the financial services industry or employed anywhere else by an governments, is also how they built their claim that the funds were a "Ponzi-like" scheme, and needed "new member capital". Again, I repeat to you, they did not overstate fund distributions by just 1% or 2%, but **by more than 50% percent.** Here is their court reply:

The Commission does not dispute that in calculating member returns in the Complaint, it added together the line items "distributions" and "re-invested distributions" to arrive at the total distributions alleged in the Complaint.

SEC knew of this matter when they filed the lawsuit. Despite this, they illustrated to the court their wholly invalid and misleading numbers, which they knew all along were invalid and misleading, in such a way as to hide the fact that this is the formula that they used. SEC only acknowledged that they used this formula, when confronted with my irrefutable challenge outlined in the motion, but not as to what it caused by doing this - false and unreliable numbers which they presented to a court of law, and as false pretense to a lawsuit. There can be no doubt that they knew about their knowledge of what they did - they are the SEC - a government agency with thousands of employees, and that is the government agency that is the expert on accounting matters, and who regulates trillions of dollars in market investments.

This is a federal agency that used this "math". It is not excusable. The SEC had to reply to my motion, and

they admitted that they did, indeed, use this formula, but that's about all that they would admit. They did not acknowledge in their reply the second part of this - that the formula allowed them to overstate fund distributions by more than 50%. In its lawsuit filing the SEC over-stated fund distributions, i.e., Investors' Prime Fund's distributions, shown on the next page and which I showed in my motion in addition to their "special formula", by more than \$1,000,000. They did this by employing a formula which did not work, and could not work, ever, and which they knew about (they're all CPA's and attorneys), but still used it. Here is the table from the court motion I filed, and which clearly illustrates IPF's actual income distributions, vs. what the SEC falsely illustrated in the lawsuit by using their special, and hidden, formula:

| <u>For Investors Prime Fund, LLC</u> | | | |
|--------------------------------------|--|------------------|--------------------|
| | Year | 2010 | 2011 |
| 23 | | | |
| 24 | | | |
| 25 | Boudreau's Falsely Illustrated Distributions from his Declarations | \$1,284,874 | \$2,146,299 |
| 26 | Actual Distributions from Company Financial Statements | <u>\$850,514</u> | <u>\$1,390,853</u> |
| 27 | Boudreau's Fraudulent Percentage Increase to distributions: | 51% | 54% |

We have all been very severely impacted by this matter, but to SEC, we're just anonymous people they don't know. This is your government doing this, paid for with your tax dollars. They have misrepresented many matters to the court, not just these, and they've been helped by the receiver, who they chose. If you are as outraged about this matter, as I am, now that you know about it, I HIGHLY encourage you to write the Judge now to let him know, as he does look at these letters. You should do this by February 15th because the court has hearings on my motion for dismissal on the 22nd.

This matter of SEC's false illustrations **which it presented in a court of law**, which you pay for with your tax dollars, and this lawsuit - affecting four hundred investors who were deprived of this knowledge (has the receiver bothered to let anybody know about this? He's known about it for 3 months in his own so called "forensic reports" or other reports to the court), is a travesty - for each and every investor of the funds. The SEC knowingly used false and misleading illustrations as the basis of all they have done, including presenting to the court fraud accusations against me, in order to convince the court to decline legal fees...*which would have allowed me to show these matters to the court right away, and to get this lawsuit discharged, instead of causing a four month delay while I painstakingly put the pieces together through thousands of pages of the SEC's materials in which it hid these matters, and which I only discovered four months into a lawsuit by reconstructing what they had done.*

The receiver, who has worked with the SEC many times before, knew just how to aid their cause. He took all of the books and records for the funds right away, and changed the locks on the doors, and fired ninety percent of the staff - in other words, most anybody who knew anything. That's a nice simple way for the SEC and the receiver to have made sure that no investors, myself, or anybody else would ever find out about the truth of what they had done, isn't it? I suggest that you even show this letter to your tax accountant, and your lawyer, and get their opinion on how wrong SEC's actions and false financial illustrations are. Please let the court hear your voice right away, before it its too late. Write a letter to the court at the address below, and make sure to put in the subject line: **"SEC v. Small Business Capital Corp."**

Hon. Judge Edward J. Davila
 United States District Court
 280 S. 1st. St., 4th Floor
 San Jose, CA 95113

Regards - Mark Feathers