

Triton target of SEC lawsuit

Investment firm and founder
accused of fraud; state board
also cites 'fraudulent practices'

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AMERICAN-STATESMAN STAFF

The Securities and Exchange Commission on Tuesday filed a securities fraud lawsuit against Triton Financial, an Austin-based investment firm that leveraged its connections to former NFL players to recruit investors.

The complaint, filed in federal court in Austin, alleged that Triton and its founder and CEO, Kurt B. Barton, had raised \$50 million from investors over the past five years, but misrepresented how it was used, diverted some of it to different purposes without informing investors, and submitted "altered or fabricated" documents to regulators.

The Texas State Securities Board, which coordinated with the SEC on the investigation, cited in a separate filing several incidents that it said "constitute fraudulent practices in the sale of securities and fraudulent business practices."

"We believe the evidence shows Triton and Barton operated something akin to a shell game, shifting investor funds from one investment vehicle to another without permission and otherwise misusing investor money,"



Kurt Barton
Founder
established
Triton in 2002.

TARGET: Firm accused of misapplying investors' money

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Securities Board spokesman Robert Elder said.

The SEC is seeking civil penalties plus interest, as well as requiring that the defendants give up their gains from what the agency called a "multimillion-dollar scam." The securities board issued a notice of hearing, seeking to revoke Barton's registration as an investment advisor.

Triton and Barton's assets have been frozen, and a receiver has been appointed to take over the firm and recover money for investors.

"Mr. Barton is out and will no longer be operating the businesses that are in receivership," said Toby Galloway, an SEC attorney in Fort Worth.

Joe Turner, Barton's attorney, issued a statement that said: "Mr. Barton has voluntarily consented to the appointment of a receiver. He intends to work closely with the receiver in an effort to ensure that the investors, many of whom are friends and relatives, do not lose their money."

Barton, 41, founded Triton in 2002 after running a firm managing benefit plans for school systems, which he later sold.

On its Web site, Triton said it

was "a unique kind of financial services and investment firm" that could balance traditional investments, such as stocks and bonds, with real estate, venture capital and other alternatives.

"It's a proven strategy — one that gives our clients stability and reliable cash flow, while taking advantage of potential high-yield opportunities. In other words, it's a 'win-win'" the company said.

Triton hired former NFL players in order to "build a facade of legitimacy and build investor trust," according to a statement from Rose Romero, director of the SEC's Fort Worth office.

Both the SEC and Securities Board cite several instances where Triton allegedly misapplied investors' money.

In one incident, the Securities Board filing alleged that Barton and Capvest, a Triton entity, told an unnamed investor that a \$1 million investment would be used to make a loan to a Houston company called Heries LP.

The filing said investigators could not locate Heries and that the address Barton gave for the company did not appear to be real.

The state filing also alleges that Barton and Triton entities transferred money from some investors without authorization into accounts including Barton's personal bank account.

Additionally, the state filing said Barton borrowed money from investors, guaranteeing that it would be backed up by his E-Trade account, which he said was worth \$3.1 million. Investigators said the account had never been worth that amount.

The SEC complaint said Triton raised \$8.4 million last year to buy stock in National States Insurance Co., based in St. Louis, Mo.

Instead, the complaint said, "Barton and Triton Insurance misapplied the funds to pay the expenses and obligations of Triton and its affiliates," without telling investors.

That episode also is the focus of a lawsuit filed in Travis County District Court against Barton and several Triton entities.

The lawsuit, filed by investor Ryan Shapiro, accused Triton of breaching its fiduciary duty by shifting money raised to buy NSIC to another Triton entity.

Bill Ikard, Shapiro's attorney, said he is seeking class-action status for the lawsuit.

"We're going to ask for every investor to get his or her money back," Ikard said. "We assume there are around 300 investors."

However, Ikard said that a judge had issued a general stay in the case, in order to prevent other lawsuits by Triton creditors seeking to get their money before the receiver finishes his job.

Triton Financial came into public view as it waded into sports promotion in 2007, launching an event called the Heisman Winners Weekend.

The first event brought about 30 former winners of the college football trophy to Austin for a banquet and golf at the Barton Creek Resort & Spa.

This year, Triton signed on as the three-year sponsor of the Champions Tour tournament at The Hills Country Club.

But Triton failed to meet the requirements of its contract, and Triton told the tour after this year's event that it could not continue the sponsorship in 2010.

The tournament was suspended.

Former Heisman Trophy winners and NFL quarterbacks Chris Weinke and Ty Detmer were executives in Triton's athlete services division.

Neither Weinke nor Detmer is named in the federal or state documents.

Detmer, who left the firm three months ago to become the head football coach at St. Andrew's Episcopal School in Austin, referred questions to his attorney, Spencer Barasch.

"Ty only learned of the SEC's interest in Triton a few weeks ago, and has assisted the agency in its investigation," Barasch said. "If the allegations of the SEC's lawsuit are true, Ty, along with his peers, were greatly misled and Ty will continue to cooperate with the SEC in its investigation, if asked to do so."

Weinke said he was not interviewed by the SEC but was aware that Barton had spoken to the commission.

Weinke, who said he had invested his own money with Triton, said that he no longer worked for the firm. He declined to elaborate.

"I can tell you I'm devastated," Weinke said from his home state of Minnesota. "There's just a lot of unanswered questions."

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