

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA**

**CASE NO.:** \_\_\_\_\_

**SECURITIES AND EXCHANGE COMMISSION,**

**Plaintiff,**

**v.**

**CARLOS PINGARRON,**

**Defendant.**

\_\_\_\_\_ /

**COMPLAINT FOR INJUNCTIVE AND OTHER RELIEF**

Plaintiff Securities and Exchange Commission alleges as follows:

**I. INTRODUCTION**

1. From no later than July 2017 through at least July 2019, Defendant Carlos Pingarron served as an unregistered broker on behalf of Sky Group USA, LLC (“Sky Group” or “the Company”), a private South Florida payday loan company. During that time, Pingarron raised more than \$3.9 million for Sky Group from the offer and sale of promissory notes (“Notes”) in unregistered securities transactions involving approximately 67 investors. Pingarron earned approximately \$942,000 in transaction-based compensation from his sales.

2. Sky Group, and its founder Efrain Betancourt, Jr. promised Sky Group investors that the Notes were a high-return, low-risk investment and made baseless claims about the success of Sky Group’s loan business, the safety of the investment in the Notes, and the use of investor funds. Unbeknownst to Pingarron’s clients, Sky Group and Betancourt misrepresented Sky Group’s profitability, risk and use of investor funds. Sky Group and Betancourt paid millions of dollars to certain investors in Ponzi-like fashion, for Betancourt’s personal use and to friends and

family for no apparent business purpose.

3. Sky Group hired a network of 52 sales agents to pitch the Notes to investors, one of whom was Pingarron. To sell the Notes, Pingarron told investors that Sky Group was profitable and shared marketing materials with investors that touted the safety of the Notes. Pingarron also provided logistical assistance by, for example, sending instructions to at least one investor on how to wire funds to purchase the Notes.

4. During the time he offered and sold Sky Group securities, Pingarron was not registered as a broker or dealer with the Commission or associated with a registered broker or dealer. Additionally, Sky Group did not register its securities offering with the Commission, and there was no applicable exemption from registration for this offering.

5. By engaging in this conduct, Pingarron violated Sections 5(a) and 5(c) of the Securities Act of 1933 (“Securities Act”) [15 U.S.C. §§ 77e(a) and 77e(c)], and Section 15(a)(1) of the Securities Exchange Act of 1934 (“Exchange Act”) [15 U.S.C. § 78o(a)(1)]. The Commission seeks an injunction against Pingarron’s future violations of these provisions, as well as disgorgement of ill-gotten gains, prejudgment interest on disgorgement, and a civil money penalty.

## **II. DEFENDANT AND OTHERS**

6. Pingarron, age 41, is a resident of Doral, Florida. He is not currently registered with the Commission or the Financial Industry Regulatory Authority as a broker or dealer, nor was he during the time period relevant to the allegations herein. Pingarron has no known prior disciplinary history.

7. Sky Group is a Florida limited liability company formed in March 2015 and headquartered in Miami, Florida. Sky Group was licensed with the State of Florida as a sales

finance company from June 9, 2015 through at least September 29, 2021 and was licensed with the State of Utah as a deferred deposit lender from January 1, 2016 through at least December 31, 2016. Sky Group has never been registered with the Commission in any capacity. The Commission filed a complaint against Sky Group and others in September 2021. *SEC v. Sky Group, USA, et al.*, No. 1:21-cv-23443 (S.D. Fla. 2021).

8. Betancourt, 33, is a resident of Miami, Florida. At all times, Betancourt was the CEO, managing member, and sole owner of Sky Group. Betancourt has never been registered with the Commission in any capacity or associated with a registered entity. Betancourt was a named defendant in the aforementioned lawsuit.

### **III. JURISDICTION**

9. This Court has jurisdiction over this action pursuant to Sections 20(b), 20(d) and 22(a) of the Securities Act [15 U.S.C. §§ 77t(b), 77t(d) and 77v(a)], and Sections 21(d), 21(e) and 27(a) of the Exchange Act [15 U.S.C. §§ 78u(d), 78u(e) and 78aa(a)].

10. This Court has personal jurisdiction over Pingarron and venue is proper in the Southern District of Florida because during the relevant period, Sky Group was located in this District and offered and sold its securities in this District, and Pingarron resided in this District and regularly transacted business in this District with Sky Group investors.

11. In connection with the conduct alleged in this Complaint, Pingarron, directly and indirectly, singly or in concert with others, made use of the means or instrumentalities of interstate commerce, the means or instruments of transportation or communication in interstate commerce, and of the mails.

#### **IV. FACTUAL ALLEGATIONS**

##### **A. The Sky Group Offering**

12. From no later than January 2016 through at least March 2020, Sky Group raised approximately \$66 million from at least 505 (and as many as 685) investors through the offer and sale of the Notes. Sky Group and Betancourt falsely represented to investors – many of whom heard about the investment through word of mouth in the Venezuelan-American community – that Sky Group would use their money solely to make small-dollar, short-term loans to consumer borrowers with poor or no credit (payday loans) and for costs associated with the loans.

13. Those who invested with Sky Group signed a “Loan Agreement and Promissory Note” with Sky Group in which investors agreed to provide Sky Group funds in return for monthly interest payments and the return of principal after one year. The principal amount of each Note generally ranged from \$10,000 to \$150,000, but went as high as \$1.1 million. The annual interest rate was normally 48 percent, but ranged from as low as 24 percent to as high as 120 percent.

14. Sky Group stated in the Notes it would use investor proceeds solely to make consumer loans or for costs associated with those loans, but in reality used investor funds for a variety of other purposes. Of the approximately \$66 million raised from investors, Sky Group, bank, and other financial records show the Company made only about \$12.2 million of consumer loans (and received only \$20.5 million in loan repayments), in direct contrast to Betancourt’s claims of a \$70 million loan portfolio and reserves sufficient to repay investors.

15. Sky Group also used almost \$12 million in investor funds on operating expenses, another \$9.8 million to pay sales agent commissions, and at least \$19.2 million of later investor funds to repay earlier investors’ principal and interest. Additionally, Betancourt was responsible for misappropriating at least \$6.5 million in investor funds for personal and family use.

16. Sky Group investors did not provide funds directly to the Company's payday loan borrowers. Rather, they provided funds to Sky Group for use in its business operations. Sky Group only used approximately 20 percent of investor funds on payday loans; the Company used the rest on business operations, sales agent commissions, personal expenses, and investor repayments, as described above. Furthermore, although about 20 percent of the Notes purported to give investors a general security interest in Sky Group assets, they did not give investors an enforceable lien or security interest in any particular company assets or receivables. The Notes furthermore did not provide investors a secured interest in the payday loans or the loan receivables.

17. Sky Group pooled all investor funds together in its bank accounts, and once investors gave money to Sky Group, they lost all control over how Sky Group used their funds. Investors were completely dependent on Sky Group to make successful payday loans to achieve their returns. Investors did not have any say in the payday loan portfolio, who Sky Group loaned money to, or Sky Group's collection efforts. The success of the investment therefore was inextricably tied to the success of Sky Group's payday loan business or other efforts by Betancourt and Sky Group to generate revenue. The investors provided the funds and received returns; Sky Group managed and controlled the business operations purportedly used to generate those returns.

#### **B. Sky Group and Betancourt's Misrepresentations**

18. Betancourt and Sky Group repeatedly promised investors they would use funds on the payday loan business only. The Notes expressly stated that Sky Group:

agree[d] that the funds to be received and governed by [the Notes] are to be used for the sole purpose of portfolio financing and associated cost by Sky Group USA LLC and any of its partner or affiliate corporations. The principal balance shall not be used for payment to members or any other expense that are not related to the **portfolio financing** of the corporation.

(Emphasis in original). Betancourt repeated the false statements that Sky Group would only use

investor funds on payday loans in his meetings with investors.

19. In reality, Sky Group and Betancourt did not use investor funds for the sole purpose of portfolio financing and associated costs. Of the approximately \$66 million raised by Sky Group through the offer and sale of the Notes, Sky Group used only 20 percent on payday loans. As described above, it used the rest on, among other things, Company business operations, sales agent commissions, and at least \$19.2 million to make Ponzi-like distributions to certain investors. In addition, Betancourt misappropriated investor funds for personal use and diverted funds to others.

20. Betancourt represented to investors in meetings that Sky Group's payday loan business was profitable and expanding, claiming to one investor that Sky Group had a \$70 million loan portfolio. In June 2019, Betancourt told at least one investor that Sky Group stood to profit by approximately \$31 million from existing loans. Betancourt also represented to investors that their principal and interest payments were protected by the profits Sky Group generated from the high interest rates the Company charged borrowers.

21. The truth was far different. The proceeds Sky Group generated from the loans were not sufficient to cover the principal and interest payments due to investors on the Notes. Furthermore, the statements of Betancourt and sales agents that the Notes were safe, and Betancourt and Sky Group's promises that the notes were secured or guaranteed, were false.

22. Betancourt misappropriated at least \$2.9 million of investor funds for personal use and expenses, including several hundred thousand dollars for Betancourt's wedding at an exclusive chateau located on the French Riviera in southern France. In addition, Betancourt transferred approximately \$3.6 million in investor funds to friends and relatives for no apparent legitimate business purpose.

**C. Pingarron Acted as an Unregistered Broker or Dealer and Offered and Sold Sky Group Notes in Unregistered Securities Transactions**

23. To sell the Notes, Sky Group hired a network of 52 outside sales agents, including Pingarron, who were responsible for making pitches to potential investors. The sales agents earned commissions for each dollar the investors they sold to invested in the Notes. Sky Group paid approximately \$9.8 million in commissions to its sales agents, most of which Sky Group did not disclose to investors. In addition to being a sales agent, Pingarron held himself out to investors as Sky Group's director of operations.

24. Investors who were interested in Sky Group sought out Pingarron to discuss the Notes. In in-person meetings, telephone calls and emails, Pingarron marketed the Notes to investors. Pingarron represented to investors that: (1) Sky Group was in the business of making payday loans to borrowers; (2) Sky Group analyzed data to determine which potential borrowers should receive loans; (3) Sky Group was profitable and generated \$100 in profit on each loan of \$300; (4) Sky Group did not have enough capital to make new loans to potential borrowers; (5) Sky Group used investor funds from the sale of Notes to make payday loans; (6) Sky paid investors three percent per month in interest on the Notes; and (7) the Notes were safe.

25. Pingarron provided at least one investor with marketing materials that touted the profitability and safety of the Notes. The marketing materials stated that Sky Group offered investments that generated above-market rates of return. The marketing materials also contained information about how the terms of the Notes protected investors. According to the marketing materials, the Notes explained that Sky Group would use the Note proceeds solely for its loan portfolio.

26. Pingarron also provided logistical assistance to at least one investor. Pingarron requested bank account information, the investor's address and the investor's phone number,

which, according to Pingarron, Sky Group needed for the investor approval process. Pingarron also provided the investor with instructions on wiring money to purchase the Notes.

27. As a result of Pingarron's efforts, he offered and sold more than \$3.9 million of Notes to at least 67 investors, earning more than \$942,000 in commissions.

## **V. CLAIMS FOR RELIEF**

### **COUNT 1**

#### **Violations of Sections 5(a) and 5(c) of the Securities Act**

28. The Commission repeats and realleges Paragraphs 1 through 27 of this Complaint as if fully set forth herein.

29. No registration statement was filed or in effect with the Commission pursuant to the Securities Act with respect to the securities Pingarron offered and sold as described in this Complaint and no exemption from registration existed with respect to these securities.

30. From no later than July 2017 and continuing through at least July 2019, Pingarron:

- a) made use of any means or instruments of transportation or communication in interstate commerce or of the mails to sell securities, through the use or medium of a prospectus or otherwise;
- b) carried or caused to be carried securities through the mails or in interstate commerce, by any means or instruments of transportation, for the purpose of sale or delivery after sale; or
- c) made use of any means or instruments of transportation or communication in interstate commerce or of the mails to offer to sell or offer to buy through the use or medium of any prospectus or otherwise any security;

without a registration statement having been filed or being in effect with the Commission as to



such securities.

31. By reason of the foregoing, Pingarron violated, and unless enjoined is reasonably likely to continue to violate, Sections 5(a) and 5(c) of the Securities Act [15 U.S.C. §§ 77e(a) and 77e(c)].

## **COUNT II**

### **Violations of Section 15(a)(1) of the Exchange Act**

32. The Commission repeats and realleges Paragraphs 1 through 27 of this Complaint as if fully set forth herein.

33. From no later than no later than July 2017 and continuing through at least July 2019, Pingarron, directly or indirectly, by the use of the mails or any means or instrumentality of interstate commerce effected transactions in, or induced or attempted to induce the purchase or sale of securities, while he was not registered with the Commission as a broker or dealer or not associated with an entity registered with the Commission as a broker or dealer.

34. By reason of the foregoing, Pingarron violated, and unless enjoined is reasonably likely to continue to violate, Section 15(a)(1) of the Exchange Act [15 U.S.C. § 78o(a)(1)].

## **VI. RELIEF REQUESTED**

WHEREFORE, the Commission respectfully requests the Court find Pingarron committed the violations alleged, and:

### **A.**

#### **Permanent Injunctive Relief**

Issue a permanent injunction enjoining Pingarron from violating Sections 5(a) and 5(c) of the Securities Act and Section 15(a)(1) of the Exchange Act.

**B.**

**Disgorgement and Prejudgment Interest**

Issue an Order directing Pingarron to disgorge all ill-gotten gains or proceeds received as a result of the acts and/or courses of conduct complained of herein, with prejudgment interest thereon.

**C.**

**Civil Money Penalty**

Issue an Order directing Pingarron to pay a civil money penalty pursuant to Section 20(d) of the Securities Act and Section 21(d) of the Exchange Act

**D.**

**Further Relief**

Grant such other and further relief as may be necessary and appropriate.

**E.**

**Retention of Jurisdiction**

Further, the Commission respectfully requests that the Court retain jurisdiction over this action in order to implement and carry out the terms of all orders and decrees that it may enter, or to entertain any suitable application or motion by the Commission for additional relief within the jurisdiction of this Court.

**VII. JURY DEMAND**

The Commission demands a jury trial on all issues so triable.

July 13, 2022

Respectfully submitted,

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