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ORIGINAL FILED  
Superior Court of California  
County of Los Angeles

Judge C. Karlan

CASE MANAGEMENT CONFERENCE

FEB 13 2014

JUN 02 2014

DEPT. N

Sherri R. Carter, Executive Officer/Clerk

By TANAYA LEWIS, Deputy

7 Attorneys for Plaintiff  
8 PEOPLE OF THE STATE OF CALIFORNIA

Date

8:30AM

10 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
11 FOR THE COUNTY OF LOS ANGELES

13 PEOPLE OF THE STATE OF CALIFORNIA,

Case No. SC122066

14 Plaintiff,

15 v.

COMPLAINT FOR INJUNCTIVE RELIEF,  
CIVIL PENALTIES AND OTHER RELIEF

16 SEACOAST COIN, INC., doing business as  
17 MERIT FINANCIAL, MERIT GOLD AND  
SILVER, and MERIT GOLD; PETER M.  
18 EPSTEIN; MICHAEL J. GETLIN; and DOES  
1-50,

19 Defendants.

21 Plaintiff People of the State of California ("the People") are informed and believe and  
22 so allege as follows:  
23

24 INTRODUCTION

25  
26  
27 1. Merit Financial is a company based in Santa Monica, California that sells gold  
28 and silver. At least since September 26, 2009, Merit has engaged in an aggressive,

1 nationwide fraud scheme that has bilked consumers out of tens of millions of dollars.

2       2. Merit's scheme boils down to a massive bait and switch. First, Merit hooks  
3 consumers with a multi-million dollar national television advertising campaign promising to  
4 sell gold and silver bullion at "1% over cost." Then, when consumers call Merit's toll-free  
5 number, its sales people use deceptive and aggressive tactics to steer consumers away from  
6 buying bullion, persuading them instead to buy certain gold and silver coins. These coins are  
7 priced far above Merit's cost, netting Merit a tremendous profit.

8       3. To switch consumers from the bullion to the overpriced coins, Merit and its  
9 sales people use a variety of fraudulent tactics. These include:

10           a. Falsely stating and implying that the overpriced coins are better than  
11           bullion, for example:

- 12                   • that the coins are a better investment than bullion;
- 13                   • that the coins offer more privacy than bullion;
- 14                   • that the coins are not "reportable" on taxes, while bullion is;
- 15                   • that the coins cannot be confiscated by the government, unlike  
16                   bullion.

17           b. Intentionally confusing consumers as to which products they are buying,  
18           so that many still believe they are paying only one percent over Merit's  
19           cost when in fact they are paying far more.

20           c. Falsely stating and implying that Merit's owner, defendant Peter M.  
21           Epstein, is a police officer.

22       4. All of the above statements are in fact untrue and misleading.

23       5. Many of Merit's customers are senior citizens. Merit targets seniors in its  
24 marketing and has defrauded a disproportionate number of seniors with its scheme.

25       6. Merit's customers are seeking a safe investment vehicle for their savings. To  
26 deceive these consumers, Merit's sales people pose as neutral investment advisors. They  
27 pretend to impart objective investment advice, touting gold and silver as an investment while  
28 also discouraging bullion and pushing the overpriced coins. However, the investment

1 "advice" is not at all neutral, but is designed solely to sell the overpriced coins. As a result,  
2 consumers unknowingly pay more than they intended, for products they did not want.

3 7. The People bring this case so the Court can protect the public from Merit's  
4 unlawful and predatory conduct and to redress the harm already done to consumers. The  
5 People will request injunctive relief; restitution to customers; civil penalties; and other relief.

6  
7 **PARTIES AND VENUE**  
8

9 8. The People bring this action through the Santa Monica City Attorney's Office  
10 pursuant to California Business and Professions Code sections 17535 and 17204.<sup>1</sup> The  
11 People's authority to bring this action is derived from sections 17535, 17536, 17203 and  
12 17206. The Los Angeles County District Attorney's Office has given consent for the Santa  
13 Monica City Attorney's Office to bring this action on behalf of the People pursuant to  
14 section 17204.

15 9. Defendant Seacoast Coin, Inc. ("Seacoast") is a corporation formed in the state  
16 of California and registered to do business in California. At all relevant times, Seacoast has  
17 done business using various names including "Merit Financial," "Merit Gold and Silver,"  
18 "Merit Gold," and "Pure Gold." In this complaint, Seacoast and all of its various business  
19 names are referred to collectively as "Merit."

20 10. Defendant Peter M. Epstein is an individual residing in Los Angeles County,  
21 California. At all times herein relevant, Epstein was and still is the co-owner, operator, and  
22 manager of Merit. Epstein has trained and supervised Merit's employees; has overseen,  
23 controlled and approved the actions described below; and is personally responsible for the  
24 acts and practices alleged below.

25 11. Defendant Michael J. Getlin is an individual residing in Los Angeles County,  
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28 

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<sup>1</sup> Unless otherwise noted, all statutory references in this Complaint are to sections of  
the California Business and Professions Code.

1 California. At all times herein relevant, Getlin was and still is the co-owner of Merit. He has  
2 trained and supervised Merit's employees; has overseen, controlled and approved the actions  
3 described below; and is personally responsible for the acts and practices alleged below.

4 12. The true names and capacities of defendants Does 1 to 50 are unknown to the  
5 People who sue those defendants by the fictitious names and will amend this complaint to  
6 show their true names and capacities when they are ascertained. The People are informed  
7 and believe and on that basis allege that each of the Doe defendants is responsible in some  
8 manner for the acts described below.

9 13. At all relevant times, each of the defendants was the agent and employee of  
10 each of the other defendants, and in doing the things alleged was acting within the course  
11 and scope of that agency and employment.

12 14. Whenever reference is made in this complaint to any act of the defendants,  
13 such allegation shall be deemed to mean that said defendants and their officers, directors,  
14 agents, employees, or representatives did or authorized such acts while engaged in the  
15 management, direction, or control of the affairs of said defendants and while acting within  
16 the scope and course of their duties, with actual or ostensible authority to perform the acts so  
17 alleged.

18 15. At all relevant times Merit has conducted its operations from business  
19 locations in Santa Monica, California. Venue is appropriate in this Court since all of the  
20 wrongful acts alleged herein occurred in Los Angeles County.

21  
22 **FACTUAL ALLEGATIONS**

23  
24 16. The defendants have committed all of the wrongful acts and practices alleged  
25 in this complaint on a regular and systematic basis since at least September 26, 2009.

26  
27 **A. Bait Advertising For Bullion.**

28 17. Merit sells precious metals and related products. It advertises on television,

1 radio, the Internet, and other places, to a nationwide base of consumers. Merit's primary TV  
2 ads at all relevant times have promoted gold and silver bullion, at "1% Over Cost."

3 18. The "1% Over Cost" ads are misleading in that one of Merit's main suppliers of  
4 gold and silver bullion is Merit itself – in the form of parent company Seacoast Coin, Inc.

5 19. After seeing Merit's ads, consumers contact the company by calling its toll-free  
6 telephone number. Defendants use a boiler-room structure to conduct transactions, the vast  
7 majority of which are initiated by these telephone calls and are completed by telephone.  
8 Most customers send Merit payments either by check or by wire transfer from their financial  
9 institution.

10 20. Merit's advertisements promote gold and silver bullion as an excellent  
11 investment. "Bullion" in this Complaint means gold and silver bars, as well as common gold  
12 and silver coins that are also considered bullion since they are worth little or nothing more  
13 than their melt value in gold or silver.

14 21. Defendants have had no intention to sell gold and silver bullion at one percent  
15 over cost, or at all. Instead, their business model depends on, and they have intended, selling  
16 the Overpriced Coins instead of bullion, at a much higher markup. In fact, selling gold and  
17 silver bullion at one percent over cost is not a viable business model for defendants in light  
18 of their substantial overhead including advertising, labor costs, and other expenses.

19 22. Gold and silver bullion are commodities. They carry a relatively small profit  
20 margin for dealers such as Merit. Far more profitable are collector's, "numismatic," "semi-  
21 numismatic," "proof," "certified," and certain other gold and silver coins promoted by Merit  
22 (collectively, "the Overpriced Coins"). The Overpriced Coins typically fetch far higher retail  
23 prices than bullion. Also, the extent of their markup is easier for dealers such as Merit to  
24 conceal.

25 23. In order to convert its customers into buying the Overpriced Coins, Defendants  
26 employ a misleading and deceptive scheme as follows.

27

28

1 **B. Switching Consumers From Bullion To The Overpriced Coins.**

2 24. When potential customers contact Merit, the defendants and their employees  
3 make or imply numerous false or misleading statements designed to decrease customers'  
4 interest in gold and silver bullion and increase their interest in the Overpriced Coins,  
5 including the following:

- 6 a. Falsely stating and implying that the Overpriced Coins have performed  
7 better than bullion as an investment;
- 8 b. Falsely stating and implying that the Overpriced Coins are a better  
9 future investment than bullion;
- 10 c. Falsely stating and implying that the Overpriced Coins have tax  
11 advantages over bullion;
- 12 d. Falsely stating and implying that the Overpriced Coins are not  
13 "reportable," unlike bullion;
- 14 e. Falsely stating and implying that the Overpriced Coins offer greater  
15 privacy to consumers than bullion;
- 16 f. Falsely stating and implying that the Overpriced Coins offer greater  
17 protection from government confiscation than bullion;
- 18 g. Making other false or misleading statements to disparage bullion and  
19 promote the Overpriced Coins;
- 20 h. Intentionally obscuring the switch from bullion to the Overpriced Coins  
21 and confusing consumers as to which products they are buying. As a  
22 result, many consumers are unaware which products they are buying,  
23 and still believe they are paying only one percent above Merit's cost  
24 when in fact they are paying far more;
- 25 i. Falsely promising to deliver bullion to consumers once they pay, and  
26 then aggressively switching them to the Overpriced Coins after their  
27 payment is received;
- 28 j. Making it difficult for consumers to undo purchases of the Overpriced

1 Coins once completed, including refusing to return consumers' calls and  
2 other communications; and

3 k. Providing significant financial and other incentives for sales people to  
4 sell the Overpriced Coins and not bullion.

5 25. In fact, the defendants' statements in sub-paragraphs 24 (a-g) above were  
6 untrue, misleading, and irrelevant to consumers' purchasing decisions.

7 26. The defendants further mislead and deceive consumers by intentionally  
8 overstating the alleged value of the Overpriced Coins. In fact, many of these coins have little  
9 or no extra value above that of bullion products.

10  
11 **C. Giving False Investment "Advice."**

12 27. The defendants and their sales people falsely imply that they are investment  
13 advisors. They intentionally lead consumers to believe that they are providing neutral  
14 investment advice, in the capacity of fiduciaries, and hide their significant conflict of interest  
15 in providing such "advice" to potential buyers. Consumers are falsely induced to trust the  
16 defendants' investment recommendations.

17 28. In fact, the defendants' employees are not certificated as investment advisers or  
18 otherwise qualified to provide investment advice to consumers.

19 29. In fact, the Overpriced Coins promoted by Merit have not performed better in  
20 the past, as investments, than gold or silver bullion products have.

21 30. The investment "advice" provided by the defendants and their employees is in  
22 fact harmful to consumers, for the following reasons:

23 (a) They recommend products that are so overpriced as to be inherently  
24 imprudent investments, where consumers could not recoup their initial investment  
25 within a reasonable period of time even assuming gains in the prices of gold or silver  
26 beyond the sale date;

27 (b) They provide advice based solely on bringing the maximum profit to Merit  
28 and not on the consumers' individual investment needs and wishes;

1 (c) They recommend that consumers allocate far more of their available  
2 investment assets to the Overpriced Coins than they know or reasonably should know  
3 is prudent;

4 (d) They make baseless, misleading and exaggerated predictions of the future  
5 performances of the gold, silver, and other markets, and of the Overpriced Coins, to  
6 further induce fear and confusion so that consumers can be manipulated for the  
7 defendants' benefit.

8  
9 **D. Conversion Of Individual Retirement Accounts.**

10 31. Many of Merit's customers already have Individual Retirement Accounts and  
11 similar investments ("IRAs") containing stocks, bonds, mutual funds, and other investments.  
12 Through the above deceptive tactics, defendants persuade them to "roll over" or otherwise  
13 convert these IRAs to the Overpriced Coins, typically in the form of gold or silver "proof"  
14 coins. As a result, these consumers lose a substantial portion of their investments – in many  
15 cases their entire life savings – at the moment they purchase the Overpriced Coins.

16 32. Whether through a straight coin purchase or the conversion of an existing IRA,  
17 a typical Merit customer "invests" five figures, six figures, or more in the Overpriced Coins.  
18 Due to the high prices of the Overpriced Coins, the customers then immediately lose a large  
19 portion of their investment.

20  
21 **E. Other Misconduct.**

22 33. The defendants and their sales people falsely state and imply to consumers that  
23 Merit's owner, defendant Peter M. Epstein, is a police officer. Merit's promotions have  
24 falsely stated, "You will be buying gold and silver from a police officer. You are in great  
25 hands!" In fact, Epstein is not a police officer.

26 34. The defendants and their sales people state and imply a false sense of urgency  
27 to rush consumers into their purchases before they discover the defendants' deceptions.

28 35. The defendants assure that their sales people aggressively pressure consumers



1 to purchase the Overpriced Coins by offering far higher commission and other inducements  
2 for selling the Overpriced Coins; and by discouraging the sale of bullion.

3 36. The defendants have used other wrongful tactics to induce consumer payments  
4 and to discourage consumers from questioning or challenging the transactions. These include  
5 threats, untrue and misleading statements, and refusing to honor Merit's stated refund or  
6 return policies.

7 37. The defendants, including Peter M. Epstein and Michael J. Getlin, along with  
8 other managers, trained Merit's sales people to use the above tactics to induce consumers to  
9 buy the Overpriced Coins, and to otherwise mislead and defraud them.

10 38. All of the above tactics were designed to, were likely to, and did in fact  
11 deceive consumers.

12  
13 **FIRST CAUSE OF ACTION**

14 **(False Advertising – California Business & Professions Code §17500)**

15  
16 39. The People incorporate and reallege the allegations of paragraphs 1 through 38.

17 40. The defendants' untrue and misleading representations alleged above were  
18 untrue or misleading when made and were known, or by the exercise of reasonable care  
19 should have been known, to be untrue and misleading.

20 41. The defendants' untrue and misleading representations alleged above were part  
21 of a plan or scheme with the intent not to sell the products at the advertised price, or as  
22 advertised.

23 42. Each such representation violated section 17500.

24 43. Unless enjoined by this Court, the defendants will continue to make untrue or  
25 misleading statements in violation of section 17500.

26 44. Pursuant to section 17536, the defendants are liable for a civil penalty of up to  
27 \$2,500.00 for each violation of section 17500.

1 **SECOND CAUSE OF ACTION**

2 **(Unfair Competition – California Business & Professions Code §17200)**

3  
4 43. The People incorporate and reallege the allegations of paragraphs 1 through 42.

5 44. Beginning at an exact date unknown to the People but at least since September  
6 26, 2009, as described above, the defendants have committed acts of unfair competition, as  
7 defined by section 17200, by engaging in unlawful, unfair and fraudulent acts and practices  
8 with respect to their customers.

9 45. The acts and practices described above were “unlawful” pursuant to section  
10 17200 in that they violated various state and federal laws, including:

11 (a) False advertising. By making untrue and misleading statements to induce  
12 payments from consumers, and by making promises to sell goods with the  
13 intent not to sell the goods as advertised or at the price stated, the defendants  
14 violated section 17500.

15 (b) Fraud in commodity sales. By, in connection with the sale of a  
16 commodity, willfully employing a device, scheme, or artifice to defraud;  
17 willfully making an untrue statement of material fact and omitting a material  
18 fact necessary to make the statements made not misleading; and willfully  
19 engaging in a transaction, act, practice, or course of business which operates or  
20 would operate as a fraud or deceit, the defendants violated California  
21 Corporations Code section 29536.

22 46. The acts and practices described above were “unfair” pursuant to section  
23 17200 both to consumers and competitors. The acts were “fraudulent” pursuant to section  
24 17200 in that they were likely to deceive members of the public and were performed with  
25 that intent.

26 47. The wrongful business acts and practices described above present a continuing  
27 threat to members of the public in that the defendants continue to advertise and to collect  
28 money from consumers across the United States. Unless enjoined by the Court, the

1 defendants will continue their unlawful, unfair and fraudulent practices.

2 48. Pursuant to section 17203 and pursuant to the Court's equitable powers, the  
3 Court may issue a preliminary and permanent injunction and issue such other orders as may  
4 be necessary to prevent future acts of unfair competition by the defendants, including the  
5 appointment of a Receiver.

6 49. Pursuant to section 17203 and pursuant to the Court's equitable powers, the  
7 Court may make such orders as may be necessary to restore to any person any interest in  
8 money or property which may have been acquired through the defendants' unfair  
9 competition.

10 50. Pursuant to section 17206, the Court must assess a civil penalty of up to  
11 \$2,500.00 for each act of unfair competition.

12 51. Pursuant to section 17206.1(a)(1), the Court may assess a civil penalty of up to  
13 \$2,500.00 for each act of unfair competition committed against a senior citizen.

14  
15 **WHEREFORE, THE PEOPLE PRAY FOR JUDGMENT AGAINST ALL**  
16 **DEFENDANTS AS FOLLOWS:**

17  
18 1. A temporary restraining order, preliminary and permanent injunction as  
19 necessary to prevent future acts of unfair competition;

20 2. Civil penalties of \$2,500.00 for each act of unfair competition, pursuant to  
21 California Business and Professions Code section 17206;

22 3. Civil penalties of \$2,500.00 for each act of unfair competition committed  
23 against a senior citizen, pursuant to California Business and Professions Code section  
24 17206.1(a)(1);

25 4. Civil penalties of \$2,500.00 for each act of false advertising, pursuant to  
26 California Business and Professions Code section 17536;

27 5. Restitution of all monies wrongfully obtained from customers;


28 6. Costs of suit; and

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7. Other relief that the Court deems proper.

Dated: February 13, 2014

MARSHA JONES MOUTRIE  
Santa Monica City Attorney

by   
ADAM RADINSKY  
Deputy City Attorney

Attorneys for Plaintiff  
PEOPLE OF THE STATE OF CALIFORNIA