1031 Investor Files Complaint Involving DST Recommended by Kay Properties

NEW YORK, NEW YORK, USA, June 14, 2023 /EINPresswire.com/ -- MDF Law, a national investor law firm, announces the filing of a complaint against Wealthforge Securities, LLC involving a DST sold by Kay Properties to a 1031 investor.


Attorney Marc D. Fitapelli

The arbitration was filed in Washington state. Neither Dwight Kay, Stephen Haskell nor Kay Properties were named in the filing. The complaint was filed before the Financial Industry Regulatory Authority, or FINRA, and was assigned Case number 23-01504.

The investor's complaint alleges that non-party, Stephen Haskell, failed to undertake reasonable due diligence into a DST called Nelson Skyloft DST, which was offered by Nelson Partners. At the time, Mr. Haskell associated with Kay Properties and licensed through Wealthforge Securities LLC. The investor is a retired artist from Washington State.

What is a 1031 Exchange?

A 1031 exchange, also known as a like-kind exchange or a tax-deferred exchange, is a provision in the United States Internal Revenue Code that allows taxpayers to defer capital gains taxes on the sale of certain types of property. The concept behind a 1031 exchange is to provide an opportunity for taxpayers to reinvest the proceeds from the sale of one property into another similar property without immediate tax consequences.

> If your DST investment failed, call me for a free consultation."
> *Attorney Marc D. Fitapelli, Esq.*

When a taxpayer sells a property, which is referred to as the "relinquished property," they can defer paying capital gains taxes by reinvesting the proceeds into another property of the same nature or character, known as the "replacement property." This type of exchange is referred to as a like-kind exchange because the properties involved must be similar, even if they differ in quality or grade. For instance, a residential property can be exchanged for another residential property, or a commercial property can be exchanged for another commercial property.

To properly structure a 1031 exchange, a taxpayer needs to work with a qualified intermediary (QI), also called an accommodator or exchange facilitator. The QI plays a crucial role in facilitating the exchange process. They handle the funds from the sale of the relinquished property and use them to acquire the replacement property.

There are specific timelines that must be followed in a 1031 exchange. Within 45 days of selling the relinquished property, the taxpayer needs to identify potential replacement properties. They must then acquire the replacement property within 180 days or by the due date of their tax return, whichever comes earlier.

Why are broker-dealers involved in 1031 Exchanges?

Beginning in 2002, the IRS released a series of revenue ruling related to syndicated 1031 exchanges. Syndicated 1031 exchanges include both tenant-in-common, or TICs, as well as Delaware Statutory Trusts, or DSTs, investments. Under these rulings, the IRS recognized two important things. First, that investors are permitted to purchase syndicated real estate interests and defer capital gains under Section 1031. Second, that these interests are considered "securities" under federal law. Because TICs and DSTs are "securities" they cannot be sold by real estate brokers and can only be sold by licensed broker-dealers. Here, the brokers operated through Kay Properties and Wealthforge was the broker-dealer responsible for due diligence.

What should I do if my DST investment failed?

If your DST investment has failed, you should contact an attorney immediately. You may be able to file a claim for money damages against the broker-dealer that was responsible for undertaking due diligence on the investment.

Please contact attorneys Marc Fitapelli or Jeffrey Saxon at 800-767-8040 for more information.

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