

UNITED STATES OF AMERICA
before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES ACT OF 1933
Release No. 9809 / June 17, 2015

SECURITIES EXCHANGE ACT OF 1934
Release No. 75187 / June 17, 2015

ADMINISTRATIVE PROCEEDING
File No. 3-16598

In the Matter of

**SAND HILL EXCHANGE,
GERRIT HALL, and
ELAINE OU**

Respondents.

**ORDER INSTITUTING CEASE-AND-
DESIST PROCEEDINGS PURSUANT TO
SECTION 8A OF THE SECURITIES ACT
OF 1933 AND SECTION 21C OF THE
SECURITIES EXCHANGE ACT OF 1934,
MAKING FINDINGS, AND IMPOSING A
CEASE-AND-DESIST ORDER**

I.

The Securities and Exchange Commission (“Commission”) deems it appropriate that cease-and-desist proceedings be, and hereby are, instituted pursuant to Section 8A of the Securities Act of 1933 (“Securities Act”) and Section 21C of the Securities Exchange Act of 1934 (“Exchange Act”) against Sand Hill Exchange (“Sand Hill”), Gerrit Hall (“Hall”) and Elaine Ou (“Ou”) (collectively, “Respondents”).

II.

In anticipation of the institution of these proceedings, Respondents have submitted Offers of Settlement (the “Offers”) which the Commission has determined to accept. Solely for the purpose of these proceedings and any other proceedings brought by or on behalf of the Commission, or to which the Commission is a party, and without admitting or denying the findings herein, except as to the Commission’s jurisdiction over them and the subject matter of these proceedings, which are admitted, and except as provided herein in Section V, Respondents consent to the entry of this Order Instituting Cease-and-Desist Proceedings Pursuant To Section 8A of the Securities Act of 1933 and Section 21C of the Securities Exchange Act of 1934, Making Findings, And Imposing A Cease-And-Desist Order (“Order”), as set forth below.

III.

On the basis of this Order and Respondents' Offers, the Commission finds that:

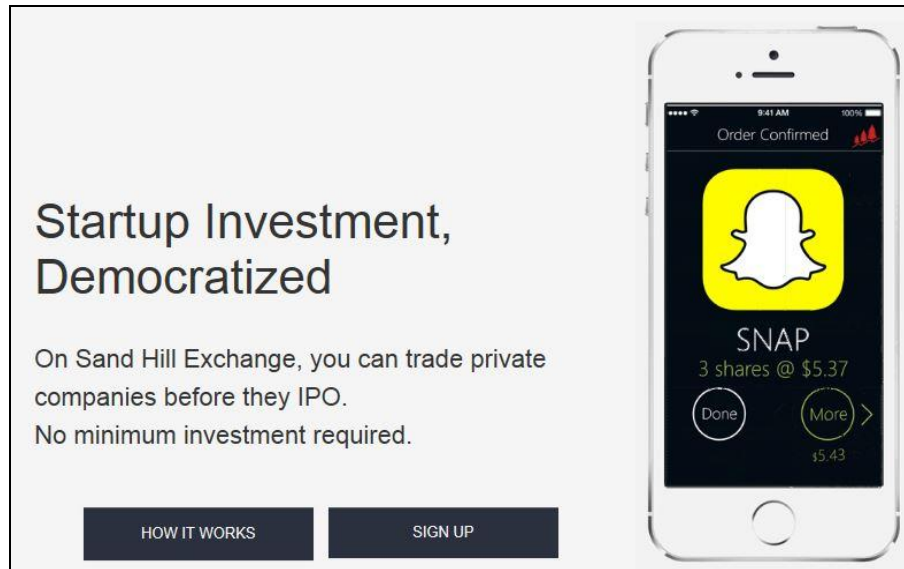
Summary

The Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 ("Dodd-Frank") was enacted to address many of the abuses that contributed to the most-recent financial crisis, including certain abuses associated with the over-the-counter derivatives market, through the establishment of a comprehensive regulatory framework for swaps and security-based swaps. As a general matter, these products include any agreement, contract or transaction whose value is based upon – or "derivative" of – the occurrence of an event or the value of something else, e.g., interest rates, currencies, commodities, or securities.

Among other reforms, Dodd-Frank sought to regulate the sale of security-based swaps to persons who are not "eligible contract participants." For example, Dodd-Frank modified Section 5 of the Securities Act to make offers and sales of security-based swaps to such persons unlawful without a registration statement. This requirement was intended to ensure that persons who are not eligible contract participants receive financial and other significant information. In addition, Section 6 of the Exchange Act was amended to require that all transactions in security-based swaps involving persons who are not eligible contract participants be effected only on a national securities exchange. This requirement was enacted in order to help ensure that these types of transactions occur only on exchanges subject to the highest level of regulation in order to benefit those investors, particularly providing price discovery mechanisms, access to relevant trading information, and the ability to ensure that the trading activity is appropriately surveilled.

Beginning in mid-February 2015, two Silicon Valley entrepreneurs began offering and selling security-based swaps through a website, Sand Hill Exchange. They had begun Sand Hill in August 2014 and experimented with several business models. In mid-February 2015, they started to buy and sell agreements that were linked to liquidity events – such as mergers, initial public offerings, and dissolutions – and to the value of the companies and their securities.

Hall and Ou sought people to fund accounts at Sand Hill using dollars or bitcoins. They had a public web site, but primarily had success recruiting their friends and acquaintances. Investors bought and sold contracts linked to liquidity events and to the value of the companies and their securities. This is an image from the web site:



For about seven weeks, Sand Hill, Hall and Ou offered, bought and sold contracts through the web site in violation of the Dodd-Frank provisions that limit transactions in security-based swaps with persons who are not eligible contract participants. During that time, Hall and Ou exaggerated Sand Hill's trading, operations, controls, and financial backing. Sand Hill, Hall and Ou ceased offering and selling security-based swaps in the face of inquiries from the Commission staff on or about April 8, 2015.

Respondents

Sand Hill Exchange is an unincorporated business based in San Mateo, California. Sand Hill sought to attract users through a Web site at www.sandhill.exchange. Sand Hill and its web site were controlled at all times by Hall and Ou.

Gerrit Hall, age 33, is a resident of San Mateo, California. Hall has an MBA from the Sloan School of Management at the Massachusetts Institute of Technology. He and Ou ran Sand Hill jointly.

Elaine Ou, age 33, is a resident of San Mateo, California. Ou has a master degree from Harvard University and a PhD in electrical engineering from Stanford University where she created models for counter-party risk in credit default swap pricing. She and Hall ran Sand Hill jointly.

Facts

A. Sand Hill Began As A Silicon Valley Cousin To Fantasy Sports

1. Hall and Ou started Sand Hill in about August 2014. They wanted to create a business that would involve valuing private start-up companies, especially companies operating in Silicon Valley. Over the next seven months, Hall and Ou experimented with several business models.

2. From about September to December 2014, Hall and Ou ran Sand Hill as a variation of a “fantasy sports” league. Users were given a pool of credits issued by Sand Hill and could buy or sell the stock of private companies listed by Sand Hill. Hall and Ou created an algorithm to produce daily prices for the companies’ stock. Although the users’ trades were one input for the algorithm, the price displayed by Sand Hill was not the actual price at which users were buying or selling “fantasy” stock. Users competed to create a portfolio of companies with the most value at the end of a time period.

3. In January 2015, Sand Hill was accepted into an “accelerator” program run by certain Silicon Valley venture capitalists. Hall and Ou worked from the accelerator’s office and met with venture capitalists and possible investors to discuss Sand Hill.

4. In January 2015, Hall and Ou changed Sand Hill’s business model. Instead of “fantasy” investing, they turned Sand Hill into a valuation contest. They asked users to provide their own valuations of about 50 private companies. Using that data, Sand Hill created consensus valuations of those companies.

5. In mid-January 2015, Hall and Ou changed Sand Hill’s business model again. This time, they turned Sand Hill into a game. They used their consensus valuations as a starting price for the companies’ value. They invited users to bet if the prices would rise or fall. Few users participated. In early February 2015, Hall and Ou shut down the game.

6. Throughout the September 2014 to early February 2015 period, users on Sand Hill had been placing “fantasy” bets using credits issued by Sand Hill. Around February 10, 2015, Hall and Ou deleted the credit from users’ accounts. They had decided to re-boot Sand Hill again, this time inviting users to buy and sell contracts using real money.

B. Sand Hill Offered Contracts That Reference Private Companies And Their Value

7. Starting about February 12, 2015, Sand Hill offered its new products with a web site that described the re-booted business. Hall and Ou viewed this as a “beta” test of the new business model. In that new model, users funded their Sand Hill accounts with either dollars or bitcoins and then bought and sold contracts that would allow them to profit (or suffer losses) in the future.

8. On February 13, 2015, Hall sent an email to users announcing the new product:

We privately launched our new market to paying traders yesterday. If you ever wanted to profit off an early stage startup, now's your chance. Here's how it works:
We list great startups, from seed stage to pre-IPO
You can buy/sell smart contracts on the expected value of the company at liquidation
You can close your position at any time, or hold on until the company exits.

9. Sand Hill's web site represented that it was "a market for smart contracts on the future valuation of startups."

10. The private companies listed on Sand Hill included Uber, Pinterest, Snapchat and Coinbase. Those companies have issued securities, including stock, although those securities are not publicly-traded.

11. Sand Hill's web site described the contracts that users could buy or sell. According to the description, a user could buy a contract that referenced a private company. If that company experienced a liquidity event – such as an initial public offering, merger or dissolution – then the contract buyer would at such time receive one dollar for every \$1 billion that the company was valued at the liquidity event, as determined by Sand Hill.

12. A February 25, 2015 blog entry on Sand Hill's web site described the contracts:

Q: How are your contracts structured?

Every contract expires when a company exits and the seller pays the buyer \$1 for every \$1 billion in valuation. In other words, if you bought ACME for \$8 and at IPO it's valued at \$10B, you would net \$2.

13. Sand Hill’s web site displayed the companies on whom contracts could be referenced with a price that appeared to be the most-recent transaction. Below is an image from Sand Hill’s Web site:

The screenshot shows a web interface with a header containing a logo of three trees, navigation links for 'Market', 'Help', 'JOIN', and 'LOG IN', and a status message 'Market is Open until 3:00 PM EDT'. Below the header is a search bar and a pagination control showing 'Show 10 entries' and page numbers 1 through 6, with page 3 selected. The main content is a table with the following columns: Company, Price, Change (\$), Change (%), Volume, and Trade. The table lists five companies: MMIND (Metamind), FITTR (Fittr), MEDM (MEDIUM), ESTMZ (Estimize), and CHNGT (CHANGETIP/CHANGE COIN).

Company	Price	Change (\$)	Change (%)	Volume	Trade
MMIND Metamind	0.058	0.003 ▲	5.97 ▲	52	Trade
FITTR Fittr	0.012	-0.000 ▼	-0.06 ▼	237	Trade
MEDM MEDIUM	0.232	-0.000 ▼	-0.01 ▼	12	Trade
ESTMZ Estimize	0.014	0.001 ▲	5.02 ▲	196	Trade
CHNGT CHANGETIP/CHANGE COIN	0.034	0.000 ▲	0.02 ▲	77	Trade

14. Sand Hill sought out people to fund accounts. Hall and Ou did not ask users about their financial holdings or seek to limit Sand Hill to users with any specific amount of assets. On the Sand Hill web site, they wrote “We accept everybody regardless of accreditation status.”

15. Hall and Ou intended to pay users who profited from their contracts. Hall viewed himself as personally liable for what he considered “boot-strapping” costs of starting a business, and Hall and Ou attempted to limit Sand Hill’s scope by limiting the number of users and limiting most users to \$250. However, Hall and Ou exaggerated Sand Hill’s accomplishments in an attempt to improve people’s views of them and the company.

16. These exaggerations included the Sand Hill web site descriptions that:

- Sand Hill was matching buyers and sellers through a “continuous double auction market”;
- the prices and volume displayed on the Sand Hill web site reflected purchases and sales by users;
- Sand Hill had “auditing and insurance solutions, to ensure the safety of client accounts”; and

- Sand Hill was “backed by notable Silicon Valley investors, providing sufficient capital to guarantee deposits.”

17. None of the descriptions in the prior paragraph were true. In reality, Sand Hill never had legal terms to govern the contract. All of the contracts entered on the Sand Hill web site were between the user and Sand Hill. There were almost no “short” investors to match with “long” investors. Sand Hill had no outside investors, auditors, or insurance. Instead, Sand Hill intended to rely on Hall and Ou to personally pay users who wanted to close out of a contract by reselling it or whose contract paid off based on a liquidity event.

18. In addition, the prices on the Sand Hill web site – which were often repeated in emails and Twitter posts sent by Hall – did not accurately reflect purchase and sales by users. Instead, Hall and Ou used an algorithm to set the price. At times, they manually changed the price to a value that they preferred. Similarly, the reports of volume on the Sand Hill web site did not reflect actual transactions. Hall and Ou set inflated volume amounts to make it appear that there was a liquid market for Sand Hill’s contracts.

19. Below are images of Twitter posts touting supposed trading on Sand Hill:



20. Hall and Ou understood that they were buying and selling derivatives linked to the value of private companies. They set a goal with one of the venture capitalists who ran the “accelerator” program to attract 1,000 trades per week.

21. Ou wrote that they were in the process of seeking regulatory approval for Sand Hill’s contracts. That was not true. They had spoken with an attorney about regulatory issues, but had not begun any regulatory approval process. Hall and Ou also told people that Sand Hill’s

contracts were “smart contracts” or were created “on the blockchain” – the bitcoin database that records all transactions on the network. That was also not true.

C. Sand Hill Sold Security-Backed Swaps

22. About 83 individuals bought and sold contracts referencing about 60 private companies on Sand Hill.

23. Some users funded their accounts using dollars, often paying with a credit card through a third-party payment processor that transferred the money to a bank account used by Hall and Ou. Some users funded their accounts using bitcoins to bitcoin accounts controlled by Ou. Overall, users provided Sand Hill with about \$5,400 in dollars and bitcoins.

24. Sand Hill bought or sold contracts about 2,300 times. Some of those involved a user buying a contract and then closing the position by selling the same contract. In aggregate, the transactions had a value of about \$10,000.

25. On March 10, 2015, a Financial Times reporter wrote about Sand Hill on a blog run by the newspaper. Hall and Ou expected the article to cause people to visit Sand Hill’s web site. Accordingly, they created prices and volumes on the web site that day to make Sand Hill look like an active, liquid market.

26. On March 12, 2015, Sand Hill, Hall and Ou received their first inquiry from the Commission’s staff.

27. Sand Hill, Hall and Ou only accepted money from five new users after the attention from the Financial Times and the inquiry from the SEC. That limited the scope of their violations.

28. Sand Hill, Hall and Ou stopped offering, selling or buying contracts on or about April 8, 2015. Sand Hill has refunded all deposits to users.

Legal Analysis

29. Dodd-Frank established a comprehensive regulatory regime for security-based swaps that includes amendments to the Securities Act and the Exchange Act to limit the sale of security-based swaps, particularly as it relates to individuals who are not eligible contract participants.

30. A security-based swap includes any agreement, contract or transaction that is a swap as defined in Commodity Exchange Act Section 1a¹ and is based on either (1) an index that is

¹ “[T]he term ‘swap’ [includes] any agreement, contract, or transaction—

... (ii) that provides for any purchase, sale, payment, or delivery (other than a dividend on an equity security) that is dependent on the occurrence, nonoccurrence, or the extent of the

a narrow-based security-index, including any interest therein or on any value thereof, (2) a single security or loan, including any interest therein or on the value thereof, or (3) the occurrence, nonoccurrence, or extent of an occurrence of an event relating to a single issuer of a security or the issuers of securities in a narrow-based security index, provided that such event directly affects the financial statements, financial condition, or financial obligations of the issuer. See 15 U.S.C. § 78c(a)(68) (Exchange Act Section 3(a)(68)).

31. The Sand Hill contracts were security-based swaps because their payouts were linked to the valuation of private companies at a liquidity event, namely a merger, IPO or dissolution. As such, the value of the contracts were based on the value of stock issued by those private companies and/or based on the occurrence of an event that directly affects the financial statements, financial condition, or financial obligations of the private companies.

32. The regulatory regime established by Dodd-Frank contains a number of provisions applicable to transactions in security-based swaps that involve persons who are not eligible contract participants. The full definition of “eligible contract participant” contains different monetary thresholds that vary depending on the particular type of person or entity involved. For example, individuals need at least \$5 million and often \$10 million invested on a discretionary basis to qualify as eligible contract participants. See 7 U.S.C. § 1a(18) (definition).

33. Dodd-Frank added Section 5(e) of the Securities Act, which makes it unlawful for any person to offer to sell, offer to buy, or purchase or sell a security-based swap to any person who is not an eligible contract participant without an effective registration statement. See 15 U.S.C. § 77e(e).

34. Dodd-Frank added Section 6(l) of the Exchange Act, which makes it unlawful for any person to effect a transaction in a security-based swap with or for a person that is not an eligible contract participant, unless such transaction is effected on a national securities exchange. See 15 U.S.C. § 78f(l).

35. Many Sand Hill users who bought and sold the Sand Hill contracts were not eligible contract participants. Hall and Ou made no effort to limit transactions to people with any specific amount of assets, and they advertised that anyone could trade – even people who did not meet the lower standard of being an accredited investor.

36. By virtue of the foregoing, Sand Hill, Hall and Ou violated Section 5(e) of the Securities Act and Section 6(l) of the Exchange Act because no registration statements were in effect and the contracts were not sold on a national securities exchange.

occurrence of an event or contingency associated with a potential financial, economic, or commercial consequence[.]”

7 U.S.C. § 1a(47) (Commodity Exchange Act section incorporated into the securities laws).

Undertakings

Respondents have undertaken to maintain on the front page of the Sand Hill web site for at least 90 days from the date of this order the existing statements that: 1) Sand Hill no longer offers “smart contracts” or any transactions based on actual money and 2) Sand Hill has refunded all money provided by users so any user who has not received a full refund should email Sand Hill at hello@sandhill.exchange.

IV.

In view of the foregoing, the Commission deems it appropriate to impose the sanctions agreed to in Respondents’ Offers.

Accordingly, it is hereby ORDERED that:

- A. Pursuant to Section 8A of the Securities Act and Section 21C of the Exchange Act, Respondents Sand Hill, Hall, and Ou cease and desist from committing or causing any violations and any future violations of Section 5(e) of the Securities Act and of Section 6(l) of the Exchange Act.
- B. Respondent Sand Hill shall pay a civil money penalty in the amount of \$20,000 to the Securities and Exchange Commission for transfer to the general fund of the United States Treasury, subject to Exchange Act Section 21F(g)(3). The initial \$12,000 must be paid within five days of the entry of this Order. The remaining \$8,000 must be paid by August 21, 2015. If timely payment is not made, additional interest shall accrue pursuant to 31 U.S.C. 3717. Payment must be made in one of the following ways:
 - (1) Respondent may transmit payment electronically to the Commission, which will provide detailed ACH transfer/Fedwire instructions upon request;
 - (2) Respondent may make direct payment from a bank account via Pay.gov through the SEC website at <http://www.sec.gov/about/offices/ofm.htm>; or
 - (3) Respondent may pay by certified check, bank cashier’s check, or United States postal money order, made payable to the Securities and Exchange Commission and hand-delivered or mailed to:

Enterprise Services Center
Accounts Receivable Branch
HQ Bldg., Room 181, AMZ-341
6500 South MacArthur Boulevard
Oklahoma City, OK 73169

Payments by check or money order must be accompanied by a cover letter identifying Sand Hill as a Respondent in these proceedings, and the file number of these proceedings; a copy of the cover letter and check or money order must be sent to Michael Osnato, Division of Enforcement, Securities and Exchange Commission, Brookfield Place, 200 Vesey Street, Suite 400, New York, NY 10281-1022.

Amounts ordered to be paid as civil money penalties pursuant to this Order shall be treated as penalties paid to the government for all purposes, including all tax purposes. To preserve the deterrent effect of the civil penalty, Respondent agrees that in any Related Investor Action, it shall not argue that it is entitled to, nor shall it benefit by, offset or reduction of any award of compensatory damages by the amount of any part of Respondent's payment of a civil penalty in this action ("Penalty Offset"). If the court in any Related Investor Action grants such a Penalty Offset, Respondent agrees that it shall, within 30 days after entry of a final order granting the Penalty Offset, notify the Commission's counsel in this action and pay the amount of the Penalty Offset to the Securities and Exchange Commission. Such a payment shall not be deemed an additional civil penalty and shall not be deemed to change the amount of the civil penalty imposed in this proceeding. For purposes of this paragraph, a "Related Investor Action" means a private damages action brought against Respondent by or on behalf of one or more investors based on substantially the same facts as alleged in the Order instituted by the Commission in this proceeding.

V.

It is further Ordered that, for purposes of exceptions to discharge set forth in Section 523 of the Bankruptcy Code, 11 U.S.C. §523, the findings in this Order are true and admitted by Respondent, and further, any debt for disgorgement, prejudgment interest, civil penalty or other amounts due by Respondent under this Order or any other judgment, order, consent order, decree or settlement agreement entered in connection with this proceeding, is a debt for the violation by Respondents of the federal securities laws or any regulation or order issued under such laws, as set forth in Section 523(a)(19) of the Bankruptcy Code, 11 U.S.C. §523(a)(19).

By the Commission.

Brent J. Fields
Secretary