

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

COMMODITY FUTURES TRADING  
COMMISSION,

Plaintiff,

v.

THOMAS DOOLEY INC. aka  
THOMAS DOOLEY INVESTMENTS,  
MICHAEL O'KEEFE, AND  
NATASHA LA BRUCE,

Defendants.

03-80526  
CIV-HURLEY

CIVIL ACTION NO.

MAGISTRATE JUDGE  
LYNCH

FILED UNDER SEAL

COMPLAINT FOR PERMANENT INJUNCTION  
AND OTHER EQUITABLE RELIEF

I. SUMMARY

1. Since at least November 2002, defendant Thomas Dooley Inc., aka Thomas Dooley Investments ("TDI"), has misappropriated customer funds in a nationwide fraudulent scheme. Defendant Natasha La Bruce ("La Bruce") is the registered director of TDI, and is TDI's CEO. Defendant Michael O'Keefe ("O'Keefe") is a telemarketer for TDI, and is also TDI's Vice President. Since November 2002, the defendants have solicited and received more than \$178,500 from customers by promising extraordinary profits in trading foreign currency option contracts. Despite the defendants' claims, no option contracts are purchased; instead the investments are diverted for O'Keefe's and La Bruce's personal expenditures.

2. O'Keefe has violated Section 4c(b) of the Commodity Exchange Act ("Act"), 7 U.S.C. § 6c(b) (2001) ("Section 4c(b)"), and Commodity Futures Trading Commission ("Commission") Regulations 1.1(b) and 32.9, 17 C.F.R. §§ 1.1 and 32.9 (2002) ("Regulations 1.1 and 32.9"), by misappropriating customer funds. O'Keefe has also violated Section 4c(b) and Regulations 1.1 and 32.9 by failing to disclose the true use of the alleged investment in foreign currency options and misrepresenting the likelihood of profit. TDI is liable for these acts and omissions of its agent, O'Keefe, by operation of Section 2(a)(1)(B) of the Act, 7 U.S.C. § 4 (2001).

3. Because the alleged options contracts offered by TDI are not consummated on or subject to the rules of a contract market designated by the Commission, TDI and O'Keefe violated Section 4c(b) of the Act and Commission Regulations 32.11 and 33.3(a), 17 C.F.R. §§ 32.11 and 33.3(a) (2002), ("Regulation 32.11") and ("Regulation 33.3").

4. TDI and O'Keefe have also violated Section 4c(b) of the Act and Commission Regulation 32.5, 17 C.F.R. §32.5 (2002), by failing to provide prospective customers with a disclosure document containing such key required information as the duration of the option, a list of elements comprising the purchase price, a description of all costs that may be incurred if the option is exercised, and an explanation concerning the necessary fall or rise in the price of the contract underlying the option in order for the customer to profit.

5. By operation of Section 13(b) of the Act, 7 U.S.C. § 13c(b) (2001), ("Section 13(b)"), La Bruce is liable as a controlling person for TDI's violations of Section 4c(b) of the Act and Commission Regulations 1.1(b), 32.5, 32.9, 32.11 and 33.3 based upon her incorporating and controlling TDI, and actively participating in the misappropriation of customer funds.

6. Accordingly, pursuant to Section 6c of the Act, 7 U.S.C. § 13a-1 (2001), the Commission brings this action to enjoin the unlawful acts and practices of defendants and to compel their compliance with the Act. In addition, the Commission seeks civil monetary penalties, a freeze of defendants' assets, disgorgement of defendants' ill-gotten gains, restitution to customers, and such other relief as this Court may deem necessary or appropriate.

7. Unless enjoined by this Court, defendants are likely to continue to engage in the acts and practices alleged in this Complaint and similar acts and practices, as more fully set forth below.

### **I. JURISDICTION AND VENUE**

8. This Court has jurisdiction over this action pursuant to Section 6c of the Act, 7 U.S.C. § 13a-1 (2001), which authorizes the Commission to seek injunctive relief against any person whenever it shall appear that such person has engaged, is engaging, or is about to engage in any act or practice constituting a violation of any provision of the Act or any rule, regulation or order thereunder.

9. Section 2(c)(2)(B)(ii) of the CFMA, Appendix E, to Public L. No. 106-554, 114 Stat. 2763 (2000), provides that the Commission shall have jurisdiction over options contracts on foreign currency, so long as the option is "offered to, or entered into with, a person that is not an eligible contract participant" and the counter-party to the option, or the person offering to be the counter-party, is not a regulated entity, as defined in the CFMA.

10. In the case of an individual, Section 1a(12)(A)(xi) of the CFMA defines an eligible contract participant as an individual who has total assets in excess of: (a) \$10 million or (b) in excess of \$5 million if hedging a risk associated with an asset or liability.

11. TDI is not a regulated entity permitted under the Act to act as counterparty for retail foreign currency transactions. Furthermore, most, if not all, of the customers solicited by TDI were not eligible contract participants.

12. Venue properly lies with this Court pursuant to Section 6c(e) of the Act, 7 U.S.C. § 13a-1(e), because the defendants are found in, inhabit, or transact business in this District and the acts and practices in violation of the Act have occurred, are occurring, or are about to occur within this District, among other places.

### III. THE PARTIES

#### A. The Plaintiff

13. **Commodity Futures Trading Commission** is an independent federal regulatory agency charged by Congress with the administration and enforcement of the Act, 7 U.S.C. §§ 1, et seq., and the regulations promulgated thereunder, 17 C.F.R. §§ 1, et seq. (2002).

#### B. The Defendants

14. **Thomas Dooley Inc. aka Thomas Dooley Investments** is a Florida corporation, which designates, in its certificate of incorporation, its principal place of business as 9824 Grand Verde Way, #904, Boca Raton, Florida 33486. On letterhead and other documentation sent to customers, TDI uses the address 2385 Executive Center Drive, Boca Raton, FL 33431. TDI has never been registered with the Commission in any capacity, nor has it been designated by the Commission as a contract market for the trading of options on foreign currency or options on foreign currency futures contracts.

15. **Michael O'Keefe** is an individual residing at 23162 Post Gardens Way, Apartment 722, Boca Raton, FL 33433. O'Keefe's previous address was the same as TDI's

address, 9824 Grand Verde Way, #904, Boca Raton, Florida 33486. He has never been registered with the Commission in any capacity.

16. **Natasha La Bruce** is an individual residing at 6900 Town Harbor Boulevard, Apartment 281, Boca Raton, Florida, 33433. She has never been registered with the Commission in any capacity.

#### IV. FACTUAL BACKGROUND

17. TDI solicits customers through cold calls, in which telemarketers claim that customers will realize extraordinary profits by investing in foreign currency option contracts with the firm. Despite these claims, TDI customers do not make any money. Customer funds are not used to purchase options contracts and instead are misappropriated. TDI telemarketer solicitations are replete with fraudulent claims and omissions designed to induce investments from the public and conceal the true use of customer funds. The defendants fail to provide their customers with proper account documentation.

##### A. **TDI Customer Funds are Misappropriated by La Bruce and O'Keefe**

18. The crux of the TDI fraudulent scheme is that no foreign currency options are purchased. Instead, the defendants misappropriate customer investments. The TDI financial records confirm the absence of foreign currency option contract purchases and the misappropriation of customer funds.

19. Investing customers wire their funds to TDI's bank account at a Boca Raton branch of the First Union/Wachovia Bank. Customer deposits are then supposedly used to purchase foreign currency options. Records for the TDI bank account - covering the period from November 2002 through April 2003 - show that approximately \$178,500 was deposited by

customers into the TDI account. However, for that same period, the records do not show any purchases of foreign currency options.

20. Disbursements from the accounts are used for personal expenses such as restaurants, limousines, groceries and pet care. O'Keefe and/or Labruce used ATM machines to withdraw over \$4,700 from the TDI account between December 9, 2002 and April 23, 2003, and made debit card purchases that include more than \$3,000 for restaurants and \$2,600 to airlines. O'Keefe, one of two authorized signatories on the TDI account, had approximately \$128,000 in checks written to himself or to cash, and signed more than \$3,000 in checks for rent, \$800 for pet care and \$600 to a maid service. La Bruce has written and signed checks payable to herself in excess of \$14,000.

**B. The Fraudulent Sales Practices**

21. TDI telemarketers make deceptive claims concerning market conditions and the potential profitability of the options that TDI purports to sell. TDI telemarketers fail to disclose that customers have no chance of profiting from their investment because they will be misappropriated and lost. In response to customer concerns, telemarketers make false and misleading statements in order to hide TDI's fraudulent scheme.

22. For example, O'Keefe, in his role as TDI telemarketer has claimed that:

- a) the Euro would surge in value in the coming months, leading to significant profits in a short period of time through investments in TDI's foreign currency options;
- b) TDI customer funds will be and were used to purchase foreign currency options, or words to that effect;

These statements are deceptive and material.

23. In order to encourage additional investment and to hide the fact that no options are purchased, O'Keefe, in his role as TDI telemarketer has falsely represented that:

- a) foreign currency options purchased with TDI are profitable, or words to that effect;
- b) customer foreign currency options purchased with TDI were sold for a profit, and the profits were used to purchase new foreign currency options with a later expiration date, or words to that effect;

These statements are deceptive and material.

**C. Failure to Provide Required Account Documentation**

24. In order to disguise the misappropriation of customer funds, the defendants fail to send proper account statements. Customers do receive statements that document the purported purchase of foreign currency options. However, the statements do not show from whom the foreign currency options are supposedly being purchased.

25. The statements do not include a description of all costs that may be incurred by the customer if the option is exercised, an explanation concerning the necessary rise or fall in the price of the contract underlying the option in order for the customer to profit, and a specific, boldfaced statement concerning the risk of loss.

26. One customer never received any account application documents, literature concerning the firm, or information on where the alleged foreign currency options contracts were traded, despite making a number of requests and receiving multiple promises from TDI telemarketers that they would send the documents.

**E. La Bruce's Controlling Person Liability**

27. La Bruce is deeply involved with TDI. La Bruce incorporated TDI, is one of two persons in control of TDI's bank account, and is listed as TDI's CEO in the account records. In addition to serving as registered director and CEO of TDI, La Bruce actively participated in the

misappropriation of customer funds. As such, La Bruce controlled TDI and the funds of customers received by TDI. La Bruce also failed to maintain a reasonably adequate system of internal supervision and control or did not enforce such a system with any reasonable diligence.

**V. VIOLATIONS OF THE COMMODITY EXCHANGE ACT  
AND COMMISSION REGULATIONS**

**COUNT I**

**VIOLATION OF SECTION 4c(b) OF THE ACT, 7 U.S.C. §6c(b), AND COMMISSION  
REGULATIONS 1.1 and 32.9, 17 C.F.R. §§ 1.1 and 32.9: FRAUD**

28. Paragraphs 1 through 27 are re-alleged and incorporated herein.

29. Since at least November 2001, O'Keefe, in or in connection with an offer to enter into, the entry into, or the confirmation of the execution of, commodity option transactions, has cheated, defrauded or deceived, or attempted to cheat, defraud, or deceive other persons by making false, deceptive, or misleading representations of material facts and by failing to disclose material facts, in soliciting customers or potential customers, including, but not limited to:

- (a) failure to disclose that no option contracts have been or will be purchased;
- (b) false representations that customers will profit from the purchase of the TDI options;
- (c) false representations that customer funds are used to purchase foreign currency options;
- (d) failure to disclose that customer funds will be misappropriated and lost; and
- (e) false representations that profits from customer investments were used to purchase new foreign currency options;

30. From, at least November 2002, and continuing through the present, TDI customer funds were misappropriated in violation of Section 4c(b) of the Act, and Commission Regulations 1.1 and 32.9, 17 C.F.R. §§ 1.1 and 32.9. O'Keefe has failed to apply customer funds

for the purchase of foreign currency options, in the manner represented, and have misappropriated and used the funds for personal expenses.

31. Each misrepresentation, omission, willful deception and misappropriation, including but not limited to those specifically alleged herein, is alleged as a separate and distinct violation of Section 4c(b) and Commission Regulations 1.1 and 32.9.

32. Because O'Keefe was acting as an agent of TDI, TDI is also liable for O'Keefe's violations of Section 4c(b) of the Act, and Commission Regulations 1.1 and 32.9, 17 C.F.R. §§ 1.1 and 32.9 pursuant to Section 2(a)(1)(B) of the Act, 7 U.S.C. § 2(a)(1)(B).

33. La Bruce directly or indirectly controlled TDI and did not act in good faith, or knowingly induced, directly or indirectly, the acts constituting these violations of Section 4c(b) of the Act, and Commission Regulations 1.1 and 32.9. La Bruce is therefore liable for these violations by operation of Section 13(b) of the Act, 7 U.S.C. § 13c(b).

**COUNT II**  
**VIOLATIONS OF SECTION 4c(b) OF THE ACT, 7 U.S.C. § 6c(b), AND COMMISSION REGULATIONS 32.11 AND 33.3(a), 17 C.F.R. §§32.11 and 33.3(a): OFFER AND SALE OF COMMODITY OPTIONS NOT CONDUCTED ON A BOARD OF TRADE WHICH HAS BEEN DESIGNATED BY THE COMMISSION AS A CONTRACT MARKET**

34. Paragraphs 1 through 27 are re-alleged and incorporated herein.

35. Sections 32.11 and 33.3 of the Regulations together provide that it shall be unlawful for any person to solicit, accept orders for, or accept funds in connection with, the purchase or sale of any commodity option, or supervise any person or persons so engaged, unless the commodity option is conducted (1) on or subject to the rules of a contract market which has been designated by the Commission to trade options and (2) by or through a member thereof in accordance with the Act and Regulations.

36. Since November 2002, and continuing to the present, TDI and O'Keefe have offered to enter into, entered into, executed, confirmed the execution of, or conducted business for the purpose of soliciting, accepting any order for, or otherwise dealing in any transaction in, or in connection with, a commodity option when: (a) such transactions have not been executed, (b) such transactions, if executed, have not been conducted on or subject to the rules of a board of trade which has been designated by the Commission as a "contract market" for such commodity, and (c) such contracts, if executed, have not been executed or consummated by or through a member of such contract market, in violation of Section 4c(b) of the Act, and Commission Regulations 32.11 and 33.3(a).

37. Each foreign exchange commodity option transaction not conducted on a designated contract market, including but not limited to those specifically alleged herein, is alleged as a separate and distinct violation of Section 4c(b) and Commission Regulations 32.11 and 33.3(a).

38. La Bruce directly or indirectly controlled TDI and did not act in good faith, or knowingly induced, directly or indirectly, the acts constituting these violations of Section 4c(b) of the Act, and Commission Regulations 32.11 and 33.3(a). La Bruce is therefore liable for these violations by operation of Section 13(b) of the Act.

### **COUNT III**

#### **VIOLATIONS OF SECTION 4c(b) OF THE ACT, 7 U.S.C. § 6c(b), and COMMISSION REGULATION 32.5, 17 C.F.R. § 32.5: FAILURE TO MAKE PROPER DISCLOSURES**

39. Paragraphs 1 through 27 are re-alleged and incorporated herein.

40. Commission Regulation 32.5 requires that a person soliciting or accepting an order for an options transaction shall deliver to the customer or prospective customer a disclosure

statement. That statement must include a brief description of the transaction (including the duration of the options offered and a list of elements comprising the purchase price), a description of all costs that may be incurred by the customer if the option is exercised, an explanation concerning the necessary rise or fall in the price of the contract underlying the option in order for the customer to profit and the effect of commissions and fees on potential profit, and a specific, boldfaced statement concerning the risk of loss. This information does not appear in the documentation furnished to customers of TDI in connection with the sale of foreign currency options.

41. TDI and O'Keefe failed to furnish customers with the disclosure statement, in violation of Section 4c(b) of the Act and Commission Regulation 32.5.

42. Each failure to provide a required disclosure statement, including but not limited to those specifically alleged herein, is alleged as a separate and distinct violation of Section 4c(b) of the Act and Commission Regulation 32.5.

43. La Bruce directly or indirectly controlled TDI and did not act in good faith, or knowingly induced, directly or indirectly, the acts constituting these violations of Section 4c(b) of the Act, and Commission Regulation 32.5. La Bruce is therefore liable for these violations by operation of Section 13(b) of the Act.

## VI. RELIEF

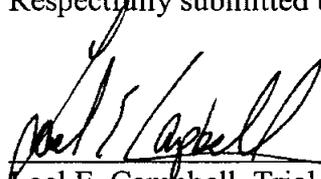
Wherefore, the Commission respectfully requests that this Court, as authorized by Section 6c of the Act, 7 U.S.C. § 13a-1 (2001), and pursuant to its own equitable powers, enter:

- a. a permanent injunction prohibiting the defendants and any other person or entity associated with them, or any successor thereof, from engaging in conduct violative of the provisions of the Act as alleged in this Complaint, and from engaging in any activity relating to commodity interest trading, including but not limited to, soliciting, accepting or receiving funds, revenue or other property from any person, giving advice for compensation, or soliciting prospective customers, related to the purchase and sale of any commodity futures or options on commodity futures contracts;
- b. an order directing the defendants and any successors thereof, to disgorge, pursuant to such procedure as the Court may order, all benefits received from the acts or practices which constituted violations of the Act, as described herein, and interest thereon from the date of such violations;
- c. an order directing the defendants to make full restitution to every customer whose funds were received by them as a result of acts and practices which constituted violations of the Act, as described herein, and interest thereon from the date of such violations;
- d. an order directing the defendants to pay a civil monetary penalty in the amount of not more than the higher of \$120,000 or triple the monetary gain to each defendant for each violation of the Act or Regulations; and

- e. such other and further remedial ancillary relief as the Court may deem appropriate.

Date: June 11, 2003

Respectfully submitted by,



---

Lael E. Campbell, Trial Attorney  
Paul Hayeck, Associate Director  
Commodity Futures Trading Commission  
Three Lafayette Centre  
1155 21<sup>st</sup> Street, N.W.  
Washington, D.C. 20581  
(202) 418-5397 telephone  
(202) 418-5523 facsimile