

## COMMODITY POOL FRAUD CASES FILED BY THE CFTC SINCE 1998

### Highlights (drawn from the list of 39 pool fraud cases listed below):

- **CFTC v. David Mobley, Sr.**, Maricopa Investment Fund, Ltd., Maricopa Index Hedge Fund Ltd., Maricopa Financial Corp., Ensign Trading Corp., Maricopa International Investment Corp., (SDNY), Civil Action No. 00-CIV-13-17 (filed 2000)

February 2000/October 2001 - The CFTC brought a fraud action against David Mobley and various affiliated corporations for defrauding investors of over \$59 million (a figure that later increased to over \$110,000,000). Mobley, who solicited customers from, among others, business and social acquaintances, claimed to have \$450 million under his management and promised high rates of return on investments, but in fact never had nearly that amount. The investments he did make incurred substantial losses. Mobley concealed the investment losses, issuing reports of non-existent profits to retain investors and to attract additional funds. Most of the investors' funds were used in Mobley's failed business ventures and to support Mobley's lavish lifestyle, which included a Vail, Colorado vacation home, a cigar bar, sports cars, jewelry, trips on private jets and a plan to build a stadium on a Naples, Florida golf course. The CFTC case (and a related SEC action) is not yet resolved.

Mobley was later indicted and convicted criminally of having defrauded more than 170 investors in this scheme. While many of the investors were wealthy, some of them were of modest means who lost IRA funds that they entrusted to Mobley and his scheme. The CFTC and SEC froze Mobley's remaining assets --approximately \$33 million -- to return to defrauded investors. In October 2001, Mobley was sentenced to serve 17 1/2 years in federal prison for his role in the fraud, and has been ordered to pay restitution to injured customers of approximately \$77,666,000.

- **CFTC v Thomas W. Lamar**, USDC Eastern District Michigan, Civil Action No. 98-70169 (filed 1998)

August 1999 - Thomas W. Lamar of Waterford, Michigan was permanently enjoined from commodity law violations based on his fraudulent operation of a commodity pool. Lamar solicited his relatives, neighbors *and fellow cancer support group members* to invest, concealed mounting trading losses and misappropriated much of their invested funds for his personal uses. He reported fictitious profits through fraudulent monthly account to induce additional investments and operated a "Ponzi" scheme to keep investors, by

using investors' funds to pay purported profits to other investors. The majority of his investors used funds from their retirement savings. The court ordered him to pay restitution in the amount of \$2,838,169 to defrauded investors. In addition, Lamar was criminally indicted and convicted for money laundering, mail and wire fraud based on the same conduct, and was sentenced to 30 months in federal prison.

- **CFTC v. Rothlin and Windsor Capital Management, Inc., and Peter Scott**, USDC D. Maryland, Case No. AMD01CV2320 (filed 2001)

August 2001 - Peter Scott and Rothlin & Windsor Capital Management, Inc., of Forest Hill, Maryland charged with fraudulently operating a commodity pool with investments totaling nearly \$7 million and misappropriating the investor's funds for their personal benefit, including for the payment of income taxes and the purchase of an automobile. Scott originally accepted funds from seven of his former work colleagues, and then the pool grew to over 600 investors through word of mouth. Despite trading losses, Scott told investors that the trading was profitable so that they would help bring in additional pool participants. At one point, Scott told investors that the pool had \$13 million when, in fact, it had only \$1.5 million.

- **CFTC v. Andrew Duncan and The Aurum Society**, USDC ND Ill. Eastern Division, Civil Action No. 01C-6802 (filed 2001)

August 2001 - Andrew Duncan of Toronto, Ontario, and the Aurum Society were charged in Illinois with fraudulently operating a commodity. Duncan operated a classic Ponzi scheme in which he collected over \$3million from investors, misappropriated investor funds for personal uses and paid phony profits to some participants so that pool participants would recruit additional investors by word of mouth. The original investors unwittingly conveyed the defendants' misrepresentations concerning the pool's performance record and the value of the account, causing their friends and acquaintances to suffer losses of funds.

- **CFTC v. Edward Knipping, d/b/a Time Traders Investment Group and Time Traders Inc.**, USDC D Maine, Civil Action No. 01-163-P-H (filed 2001)

June 2001 - Edward Knipping of Boothbay Harbor, Maine and Time Traders, Inc., a Maryland corporation, were charged with fraudulent operation of a commodity pool that collected at least \$5.9 million from approximately 250 (later discovered to be more than 1,100) investors. The defendants organized the commodity pool investors in a pyramid-like fashion, each layer of which was responsible for the recruitment of a significant number of new investors. These investors were recruited principally via e-mail and word of mouth with

friends and acquaintances. When Knipping's funds and assets were frozen, only approximately \$1.3 million remained to be distributed to injured investors. The CFTC's case is ongoing. Knipping was later criminally convicted of wire fraud based on these activities, and was sentenced in February 2002 to serve 5 years, 10 months in federal prison, with customer restitution to be ordered later in 2002.

**CFTC v Donald G. Trivette**, USDC Western District, North Carolina Civil Action No. 5:99CV54V (filed 1999)

- o Between 1995 and 1998, Donald Trivette (“Trivette”), a former floor broker at the Chicago Mercantile Exchange, fraudulently solicited and accepted in excess of \$675,000 from at least seven members of the public, many of whom are members of the same church as he, to participate in a commodity pool or, in the case of one investor, a joint account, to trade S&P 500 futures contracts (“S&Ps”) and options on S&Ps. During the course of these solicitations, Trivette misrepresented to prospective investors his performance record and the size of a pool he had been trading. Moreover, Trivette misappropriated some investor funds by using them for his personal use. Trivette continuously represented to investors that their investments earned double-digit returns when, in fact, both the pool account and Trivette’s other trading accounts all lost money in 1996, 1997 and 1998. When investors asked for their money back, Trivette failed to return any of the money. He falsely represented to the investors that their monies were seized or frozen by the Chicago Mercantile Exchange (“CME”). The case is pending.

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- (1) CFTC v Jeffrey T. Bailey dba JMK Futures Fund and JMK Capital Management, Inc., civil injunctive action filed in federal district court in Ohio, 2001.
- (2) CFTC v. Edward Knipping dba Time Traders Investment Group and Time Traders Inc., civil injunctive action filed in federal district court in Maine, 2001.
- (3) CFTC v. Andrew Duncan and The Aurum Society, civil injunctive action filed in federal district court in Illinois, 2001.
- (4) CFTC v. Rothlin and Windsor Capital Management, Inc., and Peter Scott, civil injunctive action filed in federal district court in Maryland, 2000.
- (5) CFTC v Pension America Inc., Selective Futures management, Futures profit making, Specialized Commodities Timing, Commodity Timing Specialists, Edward Stevenson Kirris III, Leonard G. Nauman dba Nauman Advisory Services and William Reif, civil injunctive action filed in federal district court in Minnesota, 2000.

- (6) CFTC v Michael James Konkel dba Venture fund and ice Capital management inc., Ad Astra Inc., and the Inscape Funds, civil injunctive action filed in federal district court in Alabama, 2000.
- (7) In re Isaac Fleyshmakher, CFTC administrative action, 2001.
- (8) CFTC v. David T. Marantette, III and Troubadour, Inc., civil injunctive action filed in federal district court in Hawaii, 2000.
- (9) CFTC v. John O. Herron and O'Herron Asset Management, civil injunctive action filed in federal district court in Michigan, 2000.
- (10) CFTC v. Stephen W. Brockbank, Carol J. Love and Birma Ltd., civil injunctive action filed in federal district court in Utah, 2000.
- (11) CFTC v. Robert Dormagen and Delta Financial Corp., civil injunctive action filed in federal district court in West Virginia, 2000.
- (12) In re William G. Billings and Billfund, Inc., CFTC administrative action, filed 2000.
- (13) CFTC v. Phillip Ferguson, Ferguson Fund, B and F Trading and First Investors Group, Inc., civil injunctive action filed in federal district court in Indiana, 2000.
- (14) In re Seungho Kim, John Ki Park, Houston System Trading, LLC, CFTC administrative action, 2000.
- (15) CFTC v. David Mobley, Sr., Maricopa Investment Fund, Ltd., Maricopa Index Hedge Fund ltd., Maricopa Financial corp., Ensign Trading Corp., Maricopa International Investment Corp., civil injunctive action filed in federal district court in New York, 2000.
- (16) CFTC v Peter Berzins, civil injunctive action filed in federal district court in Virginia, 2000.
- (17) CFTC v. Donald James and Donald James, Inc., civil injunctive action filed in federal district court in Georgia, 1999.
- (18) CFTC v. Edwin Jay Sheldon and Applied Capital Management, LLC, civil injunctive action filed in federal district court in Tennessee, 1999.
- (19) CFTC v. Joseph McGivney, Edwin Koziol, Jr., Capital Strategies, Inc., JPM 2, Inc., JPM Commodities, Inc., JPM Investments, Inc. and JPM, Inc., civil injunctive action filed in federal district court in Illinois, 1999.

- (20) CFTC v. Europacific Equity and Capital Management, Ltd, et al., Tortola Corporation Co. Ltd., International Investment Group, Ltd., Richard Tichy, David Michael Loyd, civil injunctive action filed in federal district court in Florida, 1999.
- (21) CFTC v. Mark Chulik, civil injunctive action filed in federal district court in California, 1999.
- (22) In re George Velissaris and ACG Partners, LP, CFTC administrative action, filed 1999.
- (23) CFTC v Richard Betz dba Safetrak Group ltd., Andrew E. Cafferty and Blue Chip Information Corp., civil injunctive action filed in federal district court in Tennessee, 1999.
- (24) CFTC v. John Larry Schenk (and Douglas Foster and Robert Moncur), civil injunctive action filed in federal district court in Utah, 1998.
- (25) CFTC v. Market Capital Growth, Inc, Carmen Field, Mona Smith, Steven Hudkins, Bart Bemiller, Robert Riethman, civil injunctive action filed in federal district court in Indiana, 1998.
- (26) CFTC v. Thomas Lamar, civil injunctive action filed in federal district court in Michigan, 1998.
- (27) CFTC v Morris J. Benun, civil injunctive action filed in federal district court in New York, 1999.
- (28) In re Ross Godres, CFTC administrative action, filed 1999.
- (29) CFTC v. Donald G. Trivette, civil injunctive action filed in federal district court in North Carolina, 1999.
- (30) In re David Green, CFTC administrative action, filed 1999.
- (31) CFTC v James F Bonney, civil injunctive action filed in federal district court in Wisconsin, 1998.
- (32) CFTC v S. David Friedman, Intercap International Inc and Whitehall Trust, civil injunctive action filed in federal district court in New York, 1998.
- (33) CFTC v. Chateauforte Consortium et al, civil injunctive action filed in federal district court in Alabama, 1998.
- (34) CFTC v Michael Colton, dba future Comm Trading, civil injunctive action filed in federal district court in Florida, 1998

- (35) CFTC v Ronald J. Swartz and Vertrix, Inc., civil injunctive action filed in federal district court in Illinois, 1998.
- (36) CFTC v Thomas B O'Connell, civil injunctive action filed in federal district court in Vermont, 1998
- (37) CFTC v Gary Antonacci, CFTC administrative action, filed 1998.
- (38) In re Abraham and Sons Capital, Inc., Brett G. Brubaker, CFTC administrative action, filed 1998.
- (39) CFTC v. Jack Dwight Cullen, civil injunctive action filed in federal district in Texas, 1998.