

UNITED STATES OF AMERICA  
Before the  
U.S. COMMODITY FUTURES TRADING COMMISSION

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In the Matter of: )  
)  
)

Robert A. Christy and Crabapple  
Capital Group LLC, )

Registrants. )  
\_\_\_\_\_ )

CFTC Docket No. SD 13-01

RECEIVED CFTC



Office of Proceedings  
Proceedings Clerk

4:19 pm, Jan 28, 2013

**NOTICE OF INTENT TO REVOKE THE REGISTRATIONS OF CRABAPPLE  
CAPITAL GROUP LLC AND ROBERT A. CHRISTY**

**I.**

The United States Commodity Futures Trading Commission (“Commission” or “CFTC”) has received information from its staff that tends to show, and the Commission’s Division of Enforcement (“Division”) alleges and is prepared to prove that:

1. Crabapple Capital Group LLC (“Crabapple”) is a Georgia limited liability company whose listed address with the Commission is 12600 Deerfield Parkway, Suite 100, Milton, Georgia 30004.
2. Crabapple has been registered with the Commission as a Commodity Pool Operator (“CPO”) and Commodity Trading Advisor (“CTA”) pursuant to Section 4m(1) of the Commodity Exchange Act (the “Act”), 7 U.S.C. § 6m(1) (Supp. IV 2011) since January 3, 2011.
3. Robert A. Christy (“Christy”) is a Georgia resident who has been registered an Associated Person (“AP”) of Crabapple since January 3, 2011 pursuant to Section 4k(3) of the Act, 7 U.S.C. § 6k(3) (2006). Christy is the sole owner, principal and manager of Crabapple.

4. On April 19, 2012, the Commission filed a civil injunctive action against Christy and Crabapple. *See CFTC v. Crabapple Capital Group LLC and Robert A. Christy*, Case No. 1:12-CV-1346 (N.D. Ga. filed April 19, 2012). The Commission’s complaint alleged, *inter alia*, that Christy and Crabapple engaged in multiple acts of fraudulent solicitation, misappropriation, and the making of material false statements to pool participants, all in violation of certain anti-fraud provisions of the Act. The CFTC complaint further alleged that during the period from October 2008 to April 2012, Christy and Crabapple fraudulently solicited over \$1.4 million in pool participant funds, from which they misappropriated over \$1 million. The CFTC complaint also charged Christy and Crabapple with making false statements to the National Futures Association (“NFA”) in violation of the Act.

5. On October 16, 2012, the Court entered a Consent Order for Permanent Injunction, Civil Monetary Penalty, and Other Equitable Relief Against Crabapple Capital Group LLC and Robert A. Christy (“Consent Order”). The Consent Order contained findings of fact and conclusions of law, which found, *inter alia*, that Christy and Crabapple fraudulently misappropriated over \$1 million of pool participant funds, fraudulently solicited prospective pool participants, and made material false statements to pool participants. The Order found that by engaging in this conduct, Christy and Crabapple violated, *inter alia*, Section 4b(a)(2)(A)-(C) of the Act, 7 U.S.C. § 4b(a)(2)(A)-(C) (Supp. III 2009) (with respect to conduct October 2008 to July 16, 2011); Section 4b(a)(2)(A)-(C) of the Act, 7 U.S.C. § 4b(a)(2)(A)-(C) (Supp. IV 2011) (for conduct after July 16, 2011); Section 4o of the Act, 7 U.S.C. § 6o (2006); Section 9(a)(4) of the Act, 7 U.S.C. § 13(a)(4) (Supp. IV 2011); and Commission Regulations (“Regulation”) 5.1(m) and (d), 17 C.F.R. § 5.1(m) and (d) (2011). The Consent Order, in relevant part, permanently restrains Crabapple and Christy from:

a. directly or indirectly committing fraud in violation of Section 4b(a)(2)(A)-(C), 7 U.S.C. § 4b(a)(2)(A)-(C) (Supp. IV 2011); Section 4o of the Act, 7 U.S.C. § 6o (2006); Section 9(a)(4) of the Act, 7 U.S.C. § 13(a)(4) (Supp. IV 2011) and Regulations 5.1(m) and (d), 17 C.F.R. § 5.1(m) and (d) (2011);

b. applying for registration or claiming an exemption from registration with the Commission and acting in any capacity requiring registration or an exemption from registration with the Commission; and

c. acting as a principal (as that term is defined in Regulation 3.1(a), 17 C.F.R. § 3.1(a) (2011)), agent or any other officer or employee of any person registered, exempted from registration or required to be registered with the Commission except as provided for in Regulation 4.14(a)(9), 17 C.F.R. § 4.14(a)(9) (2011).

6. Pursuant to Section 8(a)(2)(C) of the Act, 7 U.S.C. § 12(a)(2)(C) (2006), the Commission may revoke the registration of any person who has been permanently enjoined by order of a court of competent jurisdiction, from certain enumerated activities, including but not limited to (i) acting as a futures commission merchant, introducing broker, floor broker, floor trader, CTA, CPO, or an AP of any registrant under the Act, or (ii) engaging in or continuing any activity involving fraud or any transaction in or advice concerning contract of sale of a commodity for futures delivery or concerning matters subject to Commission regulation under Section 4c or 19 of the Act, 7 U.S.C. §§ 6c or 23 (Supp. IV 2011).

7. Furthermore, pursuant to Section 8a(2)(E) of the Act, 7 U.S.C. § 12(a)(2)(E) (2006), the Commission may revoke the registration of any person who has been found, in a proceeding brought by the Commission, to have violated the Act by committing fraud or

misappropriation within ten years preceding the filing of the registration application or any time thereafter.

8. Pursuant to Section 8a(2)(H) of the Act, 12 U.S.C. § 12(a)(2)(H) (2006), the Commission may revoke the registration of any person if revocation of the registration of any principal of such person is warranted pursuant to Section 8a(2) of the Act. Section 8a(2)(H) of the Act further provides that “principal,” as used in Section 8a(2) of the Act, includes a general partner of a partnership or a person who owns more than 10% of the voting shares of a corporation. Additionally, pursuant to Regulation 3.1(a)(1), 17 C.F.R. § 3.1(a)(1) (2011), if an entity is organized as a limited liability company, “principal” includes any director, president, chief executive officer, manager, managing member or members vested with the management authority for the entity, and any person occupying a similar status or performing similar functions, having the power, directly or indirectly, through agreement or otherwise, to exercise a controlling influence over the entity’s activities that are subject to regulation.

9. The facts set forth above constitute a valid basis for the Commission to revoke Christy’ registration as an AP of Crabapple.

10. The facts set forth above constitute a valid basis for the Commission to revoke Crabapple’s registration as a CPO and CTA.

## II.

11. Pursuant to Regulation 3.60(a), 17 C.F.R. § 3.60(a) (2011), Christy and Crabapple are hereby notified that a public proceeding shall be conducted in accordance with the provisions of Regulation 3.60, 17 C.F.R. § 3.60 (2011), on the following questions:

- a. Whether Christy is subject to statutory disqualification from registration under Section 8a(2)(C) and (E) of the Act as set forth in Section I above.

b. Whether Crabapple is subject to statutory disqualification from registration under Section 8a(2)(C),(E), and (H) of the Act as set forth in Section I above; and

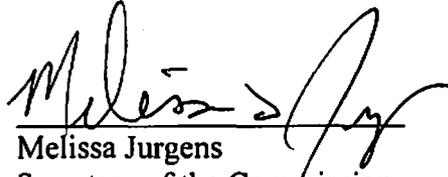
c. If the answer to the above question is affirmative, whether the registrations of Christy as an AP of Crabapple and the registrations of Crabapple as a CTA and CPO should be revoked.

12. Such proceeding shall be held before a Presiding Officer in accordance with Regulations 3.60 and 10.8, 17 C.F.R. § 3.60, 10.8 (2011), and all post-hearing procedures shall be conducted pursuant to Regulations 3.60(i)-(j), 17 C.F.R. § 3.60(i)-(j) (2011).

13. In accordance with the provisions of Regulation 3.60(a)(3), 17 C.F.R. § 3.60(a)(3) (2011), Christy and Crabapple are entitled to file a response challenging the evidentiary bases of the statutory disqualification or to show cause why, notwithstanding the accuracy of the allegations, their registrations should not be revoked. Such response must be filed with the Proceedings Clerk, Office of Proceedings, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, N.W., Washington, D.C. 20581, and served upon Jo Mettenburg, Senior Trial Attorney, Division of Enforcement, 4900 Main Street, Suite 500, Kansas City, Missouri 64112, within thirty (30) days after the date of service of this Notice upon Christy and Crabapple, in accordance with the provisions of Regulation 3.60(b), 17 C.F.R. § 3.60(b) (2011). If either Christy or Crabapple fails to file a timely response to this Notice, the allegations set forth herein shall be deemed to be true with respect to the non-responding registrant, and the presiding officer may issue an Order of Default in accordance with the provisions of Regulation 3.60(g), 17 C.F.R. § 3.60(g) (2011).

**III.**

14. The Proceedings Clerk shall serve this Notice of Intent to Revoke the Registrations of Robert A. Christy and Crabapple Capital Group LLC in accordance with Regulation 3.50, 17 C.F.R. § 3.50 (2011) or by any other means permitted under the Act or Regulations thereunder.



Melissa Jurgens  
Secretary of the Commission  
Commodity Futures Trading Commission

Dated: January 28, 2013