

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
Charlotte Division**

Commodity Futures Trading Commission,)	Case No.:3:08-cv-445
)	
Plaintiff,)	
)	
)	
v.)	
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)	
)	
McCall Business Group, LLC, MBG Global, LLC, and Tyrone "Cauzae" McCall,)	
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Defendants.)	
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**COMPLAINT FOR INJUNCTIVE AND OTHER EQUITABLE RELIEF, AND A CIVIL
MONETARY PENALTY**

I. SUMMARY

1. From at least September 2003 through March 2008 (the "relevant period"), the defendants, McCall Business Group, LLC ("MBG"), MBG Global, LLC ("MBG Global"), and Tyrone "Cauzae" McCall ("Cauzae McCall") (collectively, the "Defendants"), fraudulently solicited and accepted approximately \$1,300,000 from at least two churches and seventeen citizens from the states of Connecticut, Michigan and North Carolina. The Defendants solicited these funds by claiming to operate a commodity pool.

2. The individuals who provided funds to the Defendants, the "pool participants," believed their funds would be used to trade a variety of instruments including commodity futures ("futures") contracts.

3. Contrary to the Defendants' statements that pool participants' funds would be used to trade futures and other contracts, the majority of the pool participants' funds were either misappropriated by Cauzae McCall for his personal benefit or used to pay monthly pool participant obligations in a manner characteristic of a Ponzi scheme.

4. Cauzae McCall, who falsely held himself out to prospective and actual pool participants as a former Wall Street broker, solicited individuals to invest in his commodity pool through himself, MBG, or MBG Global by: (1) claiming that there was no risk to the pool participants' principal; (2) promising returns from 18% to as high as 60% in a year or less; and (3) otherwise creating the impression that he was a highly successful commodity and security trader.

5. The Defendants' various types of fraud violated Sections 4b(a)(2)(i) and (iii) of the Commodity Exchange Act, as amended (the "Act"), 7 U.S.C. §§ 6b(a)(2)(i) and (iii) (2006).

6. Cauzae McCall, acting as a commodity pool operator, violated Sections 4c(1)(A) and (B) of the Act, 7 U.S.C. §§ 6c(1)(A) and (B) (2006).

7. Accordingly, pursuant to Section 6c of the Act, 7 U.S.C. § 13a-1 (2006), the Commission brings this action to enjoin unlawful acts and practices of Defendants. In addition, the Commission seeks civil monetary penalties for each violation of the Act, disgorgement of Defendants' ill-gotten gains, restitution to investors, prejudgment interest and other relief as this Court may deem necessary or appropriate.

8. Unless restrained and enjoined by this Court, Defendants are likely to continue to engage in these acts and practices alleged in this Complaint and similar acts and practices, as more fully described below.

II. JURISDICTION AND VENUE

9. The Act establishes a comprehensive system for regulating futures contracts and options on futures contracts and those who are registrants pursuant to the Act. This Court has jurisdiction over this action pursuant to Section 6c of the Act, 7 U.S.C. § 13a-1 (2006), which authorizes the Commodity Futures Trading Commission (“Commission”) to seek injunctive relief against any person or entity whenever it shall appear to the Commission that such person or entity 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 Commission rule, regulation or order.

10. Venue properly lies with the Court pursuant to Section 6c of the Act, in that the Defendants are found in, inhabit, or transact business in this district, and the acts and practices in violation of the Act occurred, are occurring, or are about to occur within this district.

III. THE PARTIES

A. Plaintiff

11. The **Commodity Futures Trading Commission** is an independent federal regulatory agency charged with the responsibility for administering and enforcing the provisions of the Act, 7 U.S.C. §§ 1 *et seq.* (2006), and the Regulations promulgated under it, 17 C.F.R. §§ 1 *et seq.* (2008). The Commission maintains its principal office at Three Lafayette Centre, 1155 21st Street, N.W., Washington, D.C. 20581.

B. Defendants

12. **McCall Business Group, LLC** is a Connecticut corporation whose principal place of business is located at 6123 Providence Glen Road, Charlotte, NC 28270. MBG was incorporated in January of 2003. MBG has never registered with the Commission in any capacity.

13. **MBG Global, LLC** is a North Carolina corporation whose principal place of business is located at 6123 Providence Glen Road, Charlotte, NC 28270. MBG Global was incorporated in May of 2007, but commenced operations as early as 2004. MBG Global has never registered with the Commission in any capacity.

14. **Tyrone “Cauzae” McCall** is an individual whose last known place of residence is the Piedmont Correctional Facility in Salisbury, North Carolina.¹ Cauzae McCall, individually and as president of MBG and MBG Global, engaged in the business of soliciting prospective pool participants to invest in a commodity pool and accepted funds from pool participants to trade on their behalf in the futures markets. Cauzae McCall made most of the trading decisions for MBG Global. Cauzae McCall has never registered with the Commission in any capacity.

IV. FACTS

15. Starting in September 2003, or perhaps earlier, Cauzae McCall, through a marketing campaign aimed at churches and their congregations, began actively soliciting pool participants to trade on their behalf in the futures markets.

16. In 2004, or perhaps earlier, Cauzae McCall began operating MBG Global to help further solicit individuals to invest in a commodity pool. To target church organizations and members, Cauzae McCall attended church conventions. At these conventions, Cauzae McCall circulated MBG Global materials and told congregations that because of his experience and expertise trading in the futures and securities markets, he could increase their wealth.

¹ On May 8 2008, Cauzae McCall was indicted by the State of North Carolina for obtaining property by false pretenses and securities fraud. He was placed in custody on May 9, 2008 where he has remained to the present. On September 8, 2008, Cauzae McCall pleaded guilty to charges of obtaining property by false pretenses and securities fraud. He was sentenced to five to seven and half years.

17. Cauzae McCall also invited members of church congregations to his home for presentations on MBG Global. During the presentations, solicitation materials entitled “MBG Global: Building, Sharing, Spreading Wealth” were handed out to the attendees. Cauzae McCall reviewed the materials with the attendees and verbally highlighted key points in the literature, including that only MBG Global provided a guaranteed return of principal, no fees, not less than 18% return, optional monthly disbursements, diversification, protection from overnight price drops and consistent returns. The solicitation materials include graphs and matrices that provide a graphic presentation of a pool participant’s potential profit if they invested funds with MBG Global.

18. Cauzae McCall also told prospective pool participants that he made money by keeping the difference between the promised (18% or greater) return and the high (36% to 40%) returns he generated from trading. These statements were false. Cauzae McCall knew these statements were false or was reckless in making such statements because, as set forth below, he knew no profits were ever generated from his trading.

19. Cauzae McCall did not disclose the risks of trading commodity futures in the written solicitation materials or during his personal solicitations of prospective and actual pool participants.

20. To support the claims made in the solicitation materials, Cauzae McCall misrepresented his background and expertise by falsely stating that he enjoyed an illustrious career on Wall Street with a major investment firm. Cauzae McCall knew these representations were false or was reckless in making such claims. In fact, in opening account documents filled out by Cauzae McCall in January of 2004 for a TradeStation trading account, he indicated he had no experience trading in futures.

22. Relying upon the false claims of profits and Cauzae McCall's experience, various individuals deposited money with McCall, MBG, or MBG Global for Cauzae McCall to trade. McCall drafted and provided these pool participants with agreements. These agreements guaranteed a return of anywhere from 18% to 60% within a 6 month or 12 month time frame. In addition, the agreements stated that pool participants could elect instead to have monthly payouts. The aforementioned claims in the agreements were false. After executing the agreements, pool participants wired their funds into bank accounts held in the name of MBG and/or accounts controlled by Cauzae McCall or his wife Terrilynn McCall.

21. Cauzae McCall misappropriated pool participants' funds by either using money deposited by new pool participants to pay other pool participants in a manner characteristic of a Ponzi scheme and/or using the money deposited by pool participants as personal income or for business expenses.

22. The misappropriation of funds occurred through a complicated web of numerous bank accounts from which pool participants' funds were deposited and then transferred in various dollar amounts to other bank accounts controlled by either Cauzae McCall or his wife Terrilynn McCall.

23. A nominal amount of pool participants' funds was transferred into futures trading accounts. From October of 2004 through August of 2006 and October of 2007 to April of 2008, approximately \$400,000 of pool participants' funds were transferred from bank accounts controlled by Cauzae McCall or his wife, Terrilynn McCall into four trading accounts held at various Futures Commission Merchants ("FCMs") in the name of MBG, MBG Global or Terrilynn McCall.

24. Cauzae McCall did engage in a small amount of futures trading. However, of the \$400,000 of pool participants' funds collected during this time frame, Cauzae McCall withdrew approximately \$248,000 for his own personal use and/or business expenses. He lost approximately \$138,000 in trading.

25. Cauzae McCall consistently lost money on his trading activities.

26. As Cauzae McCall incurred trading losses and misappropriated funds, he continued to solicit prospective and actual pool participants with claims of profitability.

27. Since at least in the fall of February 2004 and continuing to the present, all of the Defendants' pool participants have made demands for the return of their funds.

28. To date, MBG, MBG Global and Cauzae McCall have paid the principal back to only one individual for the sum of \$10,000. The outstanding principal due back to the pool participants is approximately \$1,290,000.

29. Cauzae McCall also concealed from actual and prospective pool participants a Cease and Desist Order filed by the State of Connecticut against Cauzae McCall for securities fraud. When prospective pool participants inquired about the actions taken by the State of Connecticut against Cauzae McCall, he denied any wrong doing and blamed the financial industry as a whole for trying to prevent him from teaching the average person how to make money. These misrepresentations and omissions prevented actual and potential pool participants from suspecting and/or learning that Cauzae McCall, through MBG and MBG Global, was operating a business based on deception and fraud.

V. VIOLATIONS OF THE COMMODITY EXCHANGE ACT

COUNT ONE: VIOLATIONS OF SECTIONS 4b(a)(2)(i) and (iii) OF THE ACT: MISAPPROPRIATION AND SOLICITATION FRAUD

30. The allegations set forth in paragraphs 1 through 29 are realleged and incorporated herein by reference.

31. Under Sections 4b(a)(2)(i) and (iii) of the Act, 7 U.S.C. §§ 6b(a)(2)(i) and (iii) (2006), in relevant part, it is unlawful for any person, in connection with any order to make or the making of a futures contract, for or on behalf of any other person, (i) to cheat or defraud or attempt to cheat or defraud other persons, and (iii) willfully to deceive or attempt to deceive such other person by any means whatsoever in regard to any such order or contract or the disposition or execution of any such order or contract.

32. During the relevant period, Cauzae McCall, through MBG and MBG Global, failed to disclose material facts to actual and prospective pool participants, misrepresented material facts to actual and prospective pool participants, and misappropriated their funds in connection with the order to make or the making of a futures contract, for or on behalf of actual and prospective pool participants, in violation of Sections 4b(a)(2)(i) and (iii) of the Act, 7 U.S.C. §§ 6b(a)(2)(i) and (iii) (2006).

33. Each misrepresentation and omission of material fact, and misappropriation by Cauzae McCall occurred within the scope of his office as president of MBG, and therefore, MBG is liable for Cauzae McCall's violations of Sections 4b(a)(2)(i) and (iii) of the Act, 7 U.S.C. §§ 6b(a)(2)(i) and (iii), pursuant to Section 2(a)(1)(B) of the Act, 7 U.S.C. § 2(a)(1)(B) (2006).

34. Each misrepresentation and omission of material fact, and misappropriation by Cauzae McCall occurred within the scope of his office as president of MBG Global, and therefore, MBG Global is liable for Cauzae McCall's violations of Sections 4b(a)(2)(i) and (iii) of the Act, 7 U.S.C. §§ 6b(a)(2)(i) and (iii), pursuant to Section 2(a)(1)(B) of the Act, 7 U.S.C. §

2(a)(1)(B) (2006).

35. Each misrepresentation or omission of material fact, or misappropriation, including but not limited to those specifically alleged herein, is alleged as a separate and distinct violation of Sections 4b(a)(2)(i) and (iii) of the Act, 7 U.S.C. §§ 6b(a)(2)(i) and (iii) (2006).

**COUNT TWO:
VIOLATION OF SECTIONS 4o(1)(A) AND (B) OF ACT:
FRAUD AS A COMMODITY POOL OPERATOR**

36. Paragraphs 1 through 35 are realleged and incorporated herein.

37. During the relevant period, Cauzae McCall acted as a CPO in that he engaged in a business that is of the nature of an investment trust, syndicate, or similar form of enterprise and in connection therewith, and has solicited, accepted or received funds, securities or property from others for the purpose of trading in any commodity for future delivery on or subject to the rules of any contract market or derivatives transaction execution facility.

38. As defined in Section 1a(5) of the Act 7 U.S.C. § 1a(5) (2006), a CPO is

any person engaged in a business that is of the nature of an investment trust, syndicate, or similar form of enterprise, and who, in connection therewith, solicits, accepts, or receives from others, funds, securities, or property . . . for the purpose of trading in any commodity for future delivery on or subject to the rules of any contract market or derivatives transaction execution facility.

39. Section 4o(1) of the Act, 7 U.S.C. § 6o(1), in relevant part, prohibits CPOs from using the mails or any other means of interstate commerce to:

(A) employ any device, scheme, or artifice to defraud any client or participant or prospective client or participant; or

(B) engage in any transaction, practice, or course of business which operates as a fraud or deceit upon any client or participant or prospective client or participant.

40. During the relevant period, Cauzae McCall, individually and through MBG and MBG Global, while acting as an unregistered CPO, solicited, accepted or received funds from others and engaged in a business that is of the nature of an investment trust, syndicate, or similar form of enterprise, for the purpose of trading in futures.

41. Cauzae McCall employed a device, scheme or artifice to defraud pool participants and prospective pool participants or engaged in a transaction, practice or course of business knowingly or which operated as a fraud or deceit upon pool participants and prospective pool participants in violation of Sections 4o(1)(A) and (B) of the Act, 7 U.S.C. §§ 6o(1)(A) and (B) (2006), as set forth above, including by: (1) making fraudulent representations concerning Cauzae McCall's trading experience and performance, (2) guaranteeing profits and interest in connection with futures trading, (3) failing to disclose the Cease and Desist Order filed by the State of Connecticut against Cauzae McCall for securities fraud, (4) failing to disclose the risks of trading commodity futures, and (5) misappropriating pool participants' funds.

42. Each misrepresentation and omission of material fact, and misappropriation by Cauzae McCall occurred within the scope of his office as president of MBG, and therefore, MBG is liable for Cauzae McCall's violations of Sections 4o(1)(A) and (B) of the Act, 7 U.S.C. §§ 6o(1)(A) and (B), pursuant to Section 2(a)(1)(B) of the Act, 7 U.S.C. § 2(a)(1)(B) (2006).

43. Each misrepresentation and omission of material fact, and misappropriation by Cauzae McCall occurred within the scope of his office as president of MBG Global, and therefore, MBG Global is liable for Cauzae McCall's violations of Sections 4o(1)(A) and (B) of the Act, 7 U.S.C. §§ 6o(1)(A) and (B), pursuant to Section 2(a)(1)(B) of the Act, 7 U.S.C. § 2(a)(1)(B) (2006).

44. Each misappropriation and each misrepresentation or omission of material fact, including but not limited to those specifically alleged herein, is alleged as separate and distinct violations of Sections 4o(1)(A) and (B) of the Act, 7 U.S.C. §§ 6o(1)(A) and (B) (2006).

VI. RELIEF REQUESTED

WHEREFORE, the Plaintiff respectfully requests that this Court, as authorized by Section 6c of the Act, 7 U.S.C. § 13a-1 (2006), and pursuant to its own equitable powers

A. Find Defendants liable for violating Sections 4b(a)(2)(i) and (iii) and 4o(1)(A) and (B) of the Act, 7 U.S.C. §§ 6b(a)(2)(i) and (iii) and 6o(1)(A) and (B);

B. Enter an order pursuant to Section 6c(a) of the Act restraining Defendants and all persons insofar as they are acting in the capacity of Defendants' agents, servants, successors, employees, assigns, and attorneys, and all persons insofar as they are acting in active concert or participation with them who receive actual notice of such order by personal service or otherwise, from directly or indirectly:

1. Destroying, mutilating, concealing, altering or disposing of any books and records, documents, correspondence, brochures, manuals, electronically stored data, tape records or other property of Defendants, wherever located, including all such records concerning Defendants' business operations;

2. Refusing to permit authorized representatives of the Commission to inspect, when and as requested, any books and records, documents, correspondence, brochures, manuals, electronically stored data, tape records or other property of Defendants, wherever located, including all such records concerning Defendants' business operations;

3. Withdrawing, transferring, removing, dissipating, concealing or disposing of, in any manner, any funds, assets, or other property belonging to or within the custody, control or actual or constructive possession of the Defendants, wherever situated, including but not limited to, all funds, personal property, money or securities held in safes, safety deposit boxes and all funds on deposit in any financial institution, bank or savings and loan;

C. Enter orders of preliminary and permanent injunction enjoining Defendants and all persons insofar as they are acting in the capacity of their agents, servants, employees, successors, assigns, and attorneys, and all persons insofar as they are acting in active concert or participation with Defendants who receive actual notice of such order by personal service or otherwise, from directly or indirectly:

1. Engaging in conduct in violation of Sections 4b(a)(2)(ii) and 4o(1)(A) and (B), , 7 U.S.C. §§ 6b(a)(2)(ii), 6o(1)(A) and (B);

2. Engaging in any activity related to trading in any commodity, as that term is defined in Section 1a(4) of the Act, 7 U.S.C. § 1a(4) (“commodity interest”), including but not limited to, the following:

a. trading on or subject to the rules of any registered entity, as that term is defined in Section 1a(29) of the Act, 7 U.S.C. § 1a(29);

b. engaging in, controlling or directing the trading for any commodity interest account for or on behalf of any other person or entity, whether by power of attorney or otherwise;

c. soliciting or accepting any funds from any person in connection with the purchase or sale of any commodity interest;

d. applying for registration or claiming exemption from registration with the Commission in any capacity, and engaging in any activity requiring such registration or exemption from registration with the Commission, except as provided for in Regulation 4.14(a)(9), 17 C.F.R. § 4.14(a)(9) (2008), or acting as a principal, 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) (2008);

e. entering into any commodity interest transactions for their own personal accounts, for any account in which they have a direct or indirect interest and/or having any commodity interests traded on their behalf; and/or

f. engaging in any business activities related to commodity interest trading;

D. Enter an order directing that Defendants provide the Plaintiff immediate and continuing access to their books and records, make an accounting to the Court of all of Defendants' assets and liabilities, together with all funds they received from and paid to pool participants and other persons in connection with commodity futures transactions or purported commodity futures transactions, including the names, addresses and telephone numbers of any such persons from whom they received such funds from August 2005 to the date of such accounting, and all disbursements for any purpose whatsoever of funds received from commodity pool participants, including salaries, commissions, fees, loans and other disbursements of money and property of any kind, from August 2005 to and including the date of such accounting;

E. Enter an order requiring Defendants to disgorge to any officer appointed or directed by the Court or directly to the pool participants all benefits received including, but not

limited to, salaries, commissions, loans, fees, revenues and trading profits derived, directly or indirectly, from acts or practices which constitute violations of the Act as described herein, including pre-judgment interest;

F. Enter an order requiring Defendants to make restitution by making whole each and every pool participant whose funds were received or utilized by them in violation of the provisions of the Act as described herein, including pre-judgment interest;

G. Enter an order requiring Defendants to pay civil penalties under the Act, to be assessed by the Court, in amounts of not more than the higher of \$130,000 or triple the monetary gain to each Defendant for each violation of the Act and Regulations;

H. Enter an order requiring Defendants to pay costs and fees as permitted by 28 U.S.C. §§ 1920 and 2412(a)(2) (2000); and

I. Enter an Order providing such other and further relief, as this Court may deem necessary and appropriate under the circumstances.

Dated: this 26th day of September, 2008

Respectfully Submitted,

by:

/s/ Tracey Wingate

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