COMMODITY FUTURES TRADING COMMISSION (CFTC) ENFORCEMENT ACTIONS

COMMODITY POOL, HEDGE FUND & COMMODITY POOL OPERATOR PROGRAM AREA
June 2002 - May 2007

From June 2002 to date, the Commission has filed a total of 45 enforcement actions in this program area.

1. **CFTC v. Mady, et al.** On June 11, 2002 the Commission filed a civil enforcement action charging Charles Mady, a sole practitioner attorney who has never been registered with the Commission, with fraud in his operation of a commodity pool. The Commission received assistance from the Office of the United States Attorney for the Eastern District of Michigan in connection with this matter. *CFTC v. Mady et al.*, No. 02-72364 (E.D. Mich. filed June 11, 2002).

2. **CFTC v. Sovereign Resource Management, Inc., et al.** On July 18, 2002 the Commission filed a civil enforcement action against Sovereign Resource Management, Inc. (a Grenadian corporation), Ken Mitra (a Canadian citizen and the president of Sovereign), Virgil E. Smith, and Anthony Heppner. The complaint alleged that defendants accepted approximately $1.7 million in funds from at least 97 pool participants to trade futures contracts on their behalf. According to the complaint, defendants misappropriated approximately $630,000 of those funds for their own use. The British Columbia Securities Commission provided assistance to the Commission in connection with this matter. *CFTC v. Sovereign Resource Management, Inc., et al.,* No. 02-1783 (D. Minn., filed July 18, 2002).

3. **CFTC v. Gahma Corporation, et al.** On August 13, 2002 the Commission filed a civil enforcement action against Gahma Corporation ("Gahma") and four individuals, John Garrett, Allen Andersen, Robert Heninger, and Stephen Brockbank. The complaint charged that Gahma and its principals (Garrett, Andersen, and Heninger) fraudulently operated a commodity pool, while Brockbank—the pool's trading advisor and money manager—fraudulently misrepresented his trading performance and failed to disclose a Commission fraud complaint pending against him. The Commission received assistance from the Securities Division of the Utah Department of Commerce in connection with this matter. *CFTC v. Gahma Corporation, et al.*, No. 1:02cv 00101 PGC (D. Utah filed Aug. 13, 2002).

4. **CFTC v. Lofgren, et al.** *CFTC v. Lofgren, et al.*, No. 02 C 6222 (N.D. Ill. filed Aug. 30, 2002).

5. **CFTC v. O'Neill, et al.** On September 17, 2002 the Commission filed a civil enforcement action against Donald O'Neill and eight interrelated companies that he owned, controlled, or managed (Frecom Technology; Shelaley Holdings, LLC; Momentum Trading Group, Inc.; NDT Fund, LLC; Orca Funds, Inc.; Orca Capital Fund A, LLC; Orca Mohave A, LLC; and Orca Hopi A, LLC). The complaint

alleged that O'Neill, operating through this series of companies, fraudulently solicited investments totaling at least $13 million from at least 29 participants for the ostensible purpose of trading primarily foreign currency futures contracts. The Commission received assistance from the Federal Bureau of Investigation and the U.S. Attorney's Office for the Southern District of Florida in connection with this matter. *CFTC v. O'Neill, et al.,* No. 02-61307-Civ-Gold (S.D. Fla. filed Sept. 17, 2002).

6. **In re Beacon Hill Asset Management, LLC** *In re Beacon Hill Asset Management, LLC*, CFTC Docket No. SD 03-01 (CFTC filed Jan. 7, 2003).

7. **CFTC v. Wheeler, et al.** On January 30, 2003 the Commission filed a civil enforcement action against John A. Wheeler and two limited liability companies he formed and operated, Long Point Investments, LLC ("Long Point") and CDM Technologies, LLC ("CDM"), none of whom are registered with the Commission. On June 9, 2003, the court entered a consent order of permanent injunction against Wheeler, Long Point and CDM. The order found that the defendants, from at least November 2000, fraudulently solicited at least $35 million from at least 810 participants to trade foreign currencies, among other alleged high-yield investment schemes, through a pooled investment vehicle. Specifically, the order found that while the Wheeler lost some customer funds trading foreign currency futures and used some other funds received from "new" customers to repay "earlier" customers in the manner of a Ponzi scheme, he spent at least $8.4 million – and perhaps as much as $18 million – of customer funds for personal and luxury items. The order included the following sanctions: a permanent injunction from further violations as charged and from seeking registration with the Commission or engaging in any activity that requires such registration; permanent trading bans; payment, jointly and severally, of restitution ($23,157,505), and, after payment of restitution, a civil monetary penalty ($8,400,000). *CFTC v. Wheeler, et al.*, No. 6:03CV42 (E.D. Tex. filed Jan. 30, 2003).

8. **CFTC v. Dias, et al.** *CFTC v. Dias, et al.*, No. 03-2659 (C.D. Calif. filed April 16, 2003).

9. **CFTC v. Marquis Financial Mgt. Systems, Inc., et al.** *CFTC v. Marquis Financial Mgt. Systems, Inc., et al.*, No. 03-74206 (E.D. Mich. Oct. 20, 2003).

10. **CFTC v. Friedlander, et al.** On October 21, 2003 the Commission filed a civil enforcement action charging Friedlander Capital Management Corporation ("FCMC") and its sole owner and operator, Burton G. Friedlander with allegedly operating a fraudulent commodities and securities pool. The complaint alleges that, from 1998 through 2001, FCMC and Friedlander solicited customers to invest in a commodity pool. As charged, instead of placing all the pool money into trading accounts, FCMC and Friedlander used more than $1.3 million of customer funds to pay for personal and business expenses, including boats, automobiles, country club dues, and legal expenses. The complaint further alleges that FCMC and Friedlander

perpetuated and concealed their misappropriation of customer funds by routinely sending customers false compilation reports that claimed the pool was generating significant profits when, in fact, the pool was suffering losses. In addition, the complaint alleges that FCMC and Friedlander sent the false compilation reports to pool customers on the forged stationery of a major accounting firm, and that the accounting firm neither authorized FCMC or Friedlander to use its letterhead nor participated in the preparation of the false compilation reports. The Commission's action was filed in conjunction with an amended complaint filed by the Securities and Exchange Commission and a criminal indictment obtained by the United States Attorneys' Office for the Southern District of New York against the same defendants based on the same set of facts. *CFTC v. Friedlander, et al.*, No. 03 CV 8319 (S.D.N.Y. filed Oct. 21, 2003).

11. **In re Boston Trading Advisors, LLC, et al.** *CFTC v. Boston Trading Advisors, LLC, et al.* (CFTC filed Oct. 27, 2003).

12. **CFTC v. Clearview Capital Management, Inc., et al.** *CFTC v. Clearview Capital Management, Inc. and James I. Weiss*, Civil Action No. 04 CV-45-(FSH) (D.N.J. filed Jan. 8, 2004).

13. **CFTC v. Equity Financial Group LLC, et al.** On April 1, 2004, the Commission filed a civil enforcement action charging Equity Financial Group LLC ("Equity") and its President, Vincent Firth, with fraud in the solicitation of commodity pool participation interests in hedge fund Shasta Capital Associates, LLC ("Shasta"). The Commission's complaint also charges Tech Traders, Inc., the trading advisor that traded Shasta's funds in the futures markets, and Robert W. Shimer, the legal counsel for Equity and Shasta, with regulatory violations. The complaint alleges that Equity and Firth fraudulently solicited and received at least \$5.7 million from 29 or more investors for participation interests in Shasta, a commodity pool that has been touted as a hedge fund. *CFTC v. Equity Financial Group LLC, et al.*, No. 04CV15-12 (D.N.J. filed April 1, 2004).

14. **CFTC v. Vanguard Financial Mgt. Assoc., et al.** *CFTC v. Vanguard Financial Mgt. Assoc., et al.*, No. SAVC 04-575(GLT) (C.D. Cal. filed May 19, 2004).

15. **CFTC v. Tradewinds International, L.L.C., et al.** On September 1, 2004 the Commission filed a civil enforcement action against Charles L. Harris and his hedge fund, Tradewinds International, LLC ("Tradewinds"). The complaint alleges that defendants defrauded participants by misrepresenting the value of the commodity pool they operated, issuing fraudulent statements to participants, and misappropriating participant funds. Specifically, the complaint alleges that since September 1995, defendants fraudulently raised at least \$10 million from at least 30 participants for participation interests in Tradewinds International II, a private investment "hedge fund," and a predecessor fund. The Commission coordinated its investigation with the Securities Exchange Commission. *CFTC v. Charles L. Harris, Tradewinds International, L.L.C.*, Civil Action No. 04-C-5723 (N.D. Ill. filed Sept. 1, 2004).

16. **<u>CFTC v. Velazquez, et al.</u>** *CFTC v. Edward R. Velazquez et al,* Civil Action No. 04-C-5853 (N.D. Ill. filed Sept. 8, 2004).

17. **<u>CFTC v. Vision Capital Corp., et al.</u>** *CFTC v. Vision Capital Corp., et al,* Case No. 04CV00804 (D. Utah filed Sept. 16, 2004).

18. **<u>CFTC, et al. v. Nelson, et al.</u>** *CFTC et al. v. Randall Nelson, et al.*, Case No. CV 04 B 2794 NE (N.D. Ala. filed Sept. 23, 2004).

19. **<u>CFTC v. Schotz, et al.</u>** On October 27, 2004 the Commission filed a civil enforcement action charging Barry Schotz and Randolph Gale with fraudulent operation of a commodity pool called the Bear Invest Fund ("Bear pool"). The complaint alleges that, from about August 2003 to October 2004, Schotz fraudulently operated the Bear pool, and Gale became associated with him in the operation of the pool to solicit funds without being registered with the CFTC. Gale was not charged with fraud. While neither admitting nor denying the allegations in the complaint or findings in the order, the defendants consented to the court's entry of orders settling this matter with respect to both Schotz (order entered July 21, 2005) and Gale (order entered June 16, 2005). In the Schotz consent order, the court found that Schotz fraudulently solicited and accepted approximately $5 million for the Bear pool from at least 51 pool participants. The court further found that Schotz's futures trading with the Bear pool's funds consistently lost money, while Schotz falsely reported to pool participants that his trading was highly profitable and that the Bear pool was making money. Schotz, who was previously convicted of fraud in 1994 and served five years in federal prison, recently pleaded guilty in the United States District Court for the Northern District of Illinois to charges of wire fraud arising out of the allegations in the CFTC complaint. *CFTC v. Schotz, et al.*, No. 04-08889 SJO (SSx) (C.D. Cal. filed Oct. 27, 2004).

20. **<u>CFTC v. Remco Capital Management, et al.</u>** On November 16, 2004 the Commission filed a civil enforcement action charging Remco Capital Management, Inc. ("Remco"), Nutone Asset Management, Ltd. ("Nutone"), and Andrei Maruha. Remco and Maruha were charged with fraud for allegedly misappropriating participant funds that were solicited to trade commodity futures, options, and other derivatives. Nutone was charged with fraud for allegedly misrepresenting, in a telemarketing scam soliciting participants for Remco, the size, profitability, and trading record of Remco Investment Funds ("RIF"), Remco's alleged hedge fund. The CFTC also charged Remco and Nutone with failing to register with the Commission as required by the Commodity Exchange Act. Specifically, the complaint alleges that since at least August 2004, defendant Nutone solicited at least 31 participants to invest more than $1.1 million in RIF. The Commission received cooperation and assistance from the U.S. Attorney's Office for the Southern District of New York and the Federal Bureau of Investigation in connection with this matter. *CFTC v. Remco Capital Management, et al.*, No. 04 CV 09029 (S.D.N.Y. filed Nov. 16, 2004).

21. **<u>CFTC v. Heffernan.</u>** On December 16, 2004 the Commission filed a civil enforcement action charging George Heffernan with fraudulent solicitation of clients for his commodity pool and commodity trading advisory service. The Commission received assistance from the Office of the United States Attorney in Columbia, South Carolina in connection with this matter. *CFTC v. Heffernan*, No. 4 04 23302 25 (D.S.C. filed Dec. 16, 2004).

22. **<u>In re Allen.</u>** On April 6, 2005 the Commission simultaneously filed and settled an administrative enforcement action against Thomas Allen. While neither admitting or denying the findings, Allen consented to entry of the order finding that over several months in 2002, Allen engaged in, and concealed from his clients, unauthorized trading, which included the trading of commodity futures and options that resulted in substantial losses for his institutional clients. *In re Allen*, CFTC Docket No. 05-08 (CFTC filed April 6, 2005).

23. **<u>CFTC v. Steele.</u>** On May 24, 2005 the Commission filed a civil enforcement action against Kevin J. Steele, a Canadian citizen and commodity pool operator, charging him with fraudulent solicitation and misappropriation. On November 22, 2005, the court entered a default judgment against Steele finding that he defrauded and deceived pool participants by misappropriating at least $3.1 million of their funds, misrepresenting the value of the commodity pool, failing to disclose trading losses, and causing false statements to be issued to pool participants that misrepresented the balance of the participants' respective interests in the pool. *CFTC v. Steele*, No. 05-3130 (N.D. Ill. filed May 25, 2005).

24. **<u>Global Funds Management, LLC.</u>** *CFTC v*. Global Funds Management, LLC, et al., No. C 05 02142 (N.D. Cal. filed May 25, 2005).

25. **<u>CFTC v. Eustace, et al.</u>** On June 21, 2005 the Commission filed an action against Philadelphia Alternative Asset Management Co., LLC ("PAAM"), a registered commodity pool operator, and Paul M. Eustace, a registered associated person and president of PAAM, alleging fraudulent solicitation and false reporting involving hedge funds and commodity pools. PAAM is alleged to have accepted over $230 million from participants and sustained massive losses in all the pools that totaled over $210 million. In the largest fund, he sustained losses of over $179 million, in less than six months in 2005, ending with the filing of the Commission's action. On the same day that the complaint was filed, the Commission obtained a statutory restraining order freezing defendants' assets, preventing the destruction of books and records, and appointing a receiver to take control of defendants' assets. The Commission froze approximately $70 million. *CFTC v. Eustace, et al.*, No. 05CV2973 (E.D. Pa. filed June 21, 2005).

26. **<u>CFTC v. Pippin</u>**. *CFTC v. Pippin*, No. CV 05 4120 (E.D.N.Y. filed Aug. 29, 2005).

27. **<u>CFTC v. Linuxor Asset Mgt., et al.</u>** *CFTC v. Linuxor Asset Mgt., et al.*, No. 005 CV 8091 (S.D.N.Y. filed Sept. 19, 2005).

28. **<u>CFTC v. Bayou Management, LLC.</u>** On September 29, 2005 the Commission filed an action alleging misappropriation and fraud involving Connecticut hedge fund manager Bayou Management, LLC ("Bayou Management"), its principals, Samuel Israel III and Daniel E. Marino, and Richmond Fairfield Associates, Certified Public Accountants PLLC ("Richmond Fairfield"). The complaint alleges that the defendants misappropriated customer funds, acquired funds through false pretenses, engaged in unauthorized trading, and misrepresented material facts to actual and prospective participants, including the rates of return the hedge funds earned, the value of assets under management, and the existence and identity of the accounting firms that had purportedly audited the hedge funds. On the same date that the action was filed, the defendants consented to a preliminary injunction that included an asset freeze. Also on the same date, Israel and Marino, based upon the same conduct, pleaded guilty to criminal charges brought by the U.S. Attorney's Office for the Southern District of New York, White Plains Division. *CFTC v. Bayou Management, LLC*, No. 05 CIV. 8374 (S.D.N.Y. filed Sept. 29, 2005).

29. **<u>CFTC v. Efrosman, et al.</u>** *CFTC v. Efrosman, et al.*, No. 05 CV 8422 (S.D.N.Y. filed Sept. 30, 2005).

30. **<u>CFTC v. Lake Dow Capital, LLC, et al.</u>** On October 19, 2005 charged Lake Dow Capital, LLC ("Lake Dow"), a CFTC-registered commodity pool operator and commodity trading advisor, and Ty Edwards, a Lake Dow principal and CFTC-registered associated person, with fraud in their operation of the Aurora Investment Fund ("Aurora Fund") hedge fund. The CFTC alleged that the defendants misrepresented the amount of funds they managed ($60 to $100 million, when in fact the Aurora Fund did not exceed $20 million) and falsely represented that the fund had consistently generated annual profits without a single losing month. The court entered a statutory restraining order, which included an asset freeze, on the same date that the action was filed. On November 8, 2005, the court issued a consent order of preliminary injunction against all defendants prohibiting further violations of the Commodity Exchange Act and continuing the asset freeze. *CFTC v. Lake Dow Capital, LLC, et al.*, No. 1 05-CV 2709 (N.D. Ga. filed Oct. 19, 2005).

31. **<u>In re Veras Investment Partners, LLC, et al.</u>** On December 22, 2005 the CFTC simultaneously filed and settled an administrative action against Veras International Partners, LLC ("Veras"), a CFTC-registered commodity pool operator and commodity trading advisor, and James McBride and Kevin Larson, both of whom were CFTC-registered associated persons of Veras. The CFTC found that the defendant the fraudulently operated two pools as hedge funds that traded commodity futures contracts and securities. Specifically, the CFTC found that the defendants failed to disclose to fund participants certain deceptive and illegal market timing and late trading practices that Veras used to execute its securities trading strategies. The CFTC assessed sanctions including: a cease and desist order; $500,000 joint and several civil monetary penalty; and 18-month trading bans for McBride and Larson. The U.S. Securities and Exchange Commission and the New York Attorney

General's Office filed and settled related actions against Veras, McBride, Larson and others. *In re Veras Investment Partners, LLC, et al.*, CFTC Docket No. 06-01 (CFTC filed Dec. 22, 2006).

32. **<u>CFTC v. DeFazio.</u>** *CFTC v. DeFazio, et al.*, No. 06CV 0020 (S.D. Cal. filed Jan. 5, 2006).

33. **<u>CFTC v. Rodriguez.</u>** On February 3, 2006 the Commission filed a civil enforcement action charging Lazaro Jose Rodriguez with fraud. The Commission received cooperation from the U.S. Attorney's Office for the Southern District of Florida, the Federal Bureau of Investigation, and the Florida Office of Financial Regulation in connection with this matter. *CFTC v. Rodriguez*, No. 06 CV 0855 (S.D.N.Y. filed Feb. 3, 2006).

34. **<u>CFTC v. Aurifex Commodities Research Company, et al.</u>** *CFTC v. Aurifex Commodities Research Company, et al.*, No. 1:06-cv-0166-RHB (W.D. Mich. filed March 7, 2006).

35. **<u>CFTC v. Scholze</u>**. On June 9, 2006 the Commission filed a civil enforcement action charging Gary F. Scholze with fraudulently soliciting approximately $1.2 million in a scheme involving commodity futures and options. The Commission received assistance from the Federal Bureau of Investigation, the United States Postal Inspector, and the United States Attorney's Office for the District of Vermont in connection with this matter. *CFTC v. Scholze*, NO. 2:06-CV-114 (D. Vt. filed June 9, 2006).

36. **<u>In re Liskiewicz.</u>** *In re Liskiewicz*, CFTC Docket No. 06-04 (CFTC filed June 12, 2006).

37. **<u>CFTC v. King, et al.</u>** On August 30, 2006 the Commission filed a civil enforcement action charging Carl W. King and his company, Carl W. King Investments, LLP ("King Investments"), with fraud and the issuance of false reports to customers. In a related criminal action, King pled guilty in the United States District Court for the Eastern District of Texas to one count of mail fraud as a result of his fraudulent activities. King is currently serving an 87 month prison term in Federal prison. The Commission received cooperation from the United States Securities and Exchange Commission, the Texas State Securities Board, and the United States Attorney's Office for the Eastern District of Texas in connection with this matter. *CFTC v. King, et al.*, No. 3-06CV1583-M (N.D. Tex. filed Aug. 30, 2006).

38. **<u>In re Holman.</u>** *In re Holman*, CFTC Docket No. 06-07 (CFTC filed Sept. 27, 2006).

39. **<u>CFTC v. Kis.</u>** On September 27, 2006 the Commission filed a civil enforcement action charging Christian Kis with fraud in his operation of Raptor Capital, Inc. ("Raptor Capital"), a company he formed primarily for purposes of trading commodity futures contracts, as a commodity pool. The Commission received

cooperation from the Securities Division of the Tennessee Department of Commerce and Insurance in connection with this matter. *CFTC v. Kis*, No. 3 06 0935 (M.D. Tenn. filed Sept. 27, 2006).

40. **CFTC v. Perkins, et al.** On September 28, 2006 the Commission filed a civil enforcement action charging William D. Perkins with fraudulently soliciting participation interests in a commodity pool he operated under the name Universe Capital Appreciation, LLC ("Universe"), which led to the loss of over $2 million of the $3.4 million that participants invested. The United States Attorney's Office for the Western District of North Carolina filed a criminal action against one of the defendants in *United States v. Coyt E. Murray*, No. 3:06cr79-1 (W.D.N.C.). *CFTC v. Perkins, et al.*, CFTC Docket No. 1:06-cv-4674 (D.N.J. filed Sept. 28, 2006).

41. **In re Acceleration Capital, LLC.** *In re Acceleration Capital, LLC*, CFTC Docket No. 07-03 (CFTC filed Jan. 16, 2007).

42. **CFTC v. Renaissance Asset Management, LLC, et al.** On January 24, 2007, the Commission filed an injunctive enforcement action against Renaissance Asset Management, LLC ("RAM"), a registered CPO and CTA, and Anthony Ramunno, Jr., RAM's chief operating officer, alleging commodity pool fraud. The complaint alleges that, since at least June 2005, RAM and Ramunno have received investor funds and operated a commodity pool sequentially under the names RAM 1 LLP and RAM 1 LLC. The complaint alleges that, during the week of January 15-29, 2007, NFA commenced an emergency audit of RAM based on a potential RAM investor's suspicions regarding the Pool Annual Reports. During the audit, Ramunno purportedly provided NFA staff with copies of what he claimed were RAM's audited Pool Annual Reports prepared by Grant Thornton LLP for 2004 and 2005 -- despite the fact that Grant Thornton LLP has never performed any services for RAM. An internal RAM report, for the period ending December 31, 2006, reflects that there are approximately 94 investor accounts and total pool assets of at least $32 million. However, as of January 19, 2007, the NFA, in its ongoing audit, has identified only approximately $4 million of RAM assets in bank accounts and certain trading accounts. Furthermore, according to the complaint, Ramunno contacted staff at the Atlanta FBI office and admitted to "committing fraud." On the same day the complaint was filed, the court entered a statutory restraining order freezing assets and preserving books and records. The Commission received cooperation from the NFA, the FBI field office in Atlanta, and the Department of Justice in connection with this matter.. *CFTC v. Renaissance Asset Management, LLC, et al.*, No. 1:07-CV-0200 (N.D. Ga. filed Jan. 24, 2007).

43. **CFTC v. Cornerstone Capital Management, LLC.** On January 31, 2007, the Commission filed an injunctive enforcement action against Cornerstone Capital Management, LLC ("Cornerstone"), which is a hedge fund that is registered as a CPO and CTA, and Joseph Profit II, Cornerstone's CEO. The complaint alleges that, from at least May 2005 through January 24, 2007, the defendants employed schemes to defraud actual and prospective commodity pool participants and clients by

misrepresenting the rates of return Cornerstone generated for its pool participants and the value of assets it managed in its Icon Fund. For example, the defendants claimed that Cornerstone had assets under management ranging from $20 million to $60 million, though Profit admitted that as of January 23, 2007, the Cornerstone Capital Management Icon Fund had at most received a little more than $2.25 million in assets from participants. In addition to the U.S. mail and other means, defendants allegedly solicited participants and clients through the Internet website www.cornerstonecapitalmanagement.com. The complaint further alleges that Profit willfully concealed material information from the NFA, and further failed to submit an NFA- required Annual Report for 2005. On the same day the complaint was filed, the court entered a statutory restraining order freezing assets and preserving books and records. The Commission received cooperation from the NFA and the United States Attorney for the Northern District of Georgia in connection with this matter. *CFTC v. Cornerstone Capital Management, LLC*, No. 1:07-CV-0274 (N.D. Ga. filed Jan. 31, 2007).

44. **CFTC v. Parish, et al.** On April 17, 2007, the Commission filed an injunctive enforcement action against Parish Economics, LLC ("Parish Economics") and its president and owner, Albert E. Parish, Jr. alleging commodity pool fraud. Specifically, the complaint alleges that the defendants, among other things, offered and sold interests in four investment pools. One of these pools, the Futures Pool, purportedly invested in "the commodity and stock futures and options markets." Beginning in January 2003, the defendants misrepresented the total amount of funds contained in the investment pools as a whole and the total amount of funds invested in the Futures Pool individually, the complaint charges. Additionally, defendants purportedly provided Futures Pool participants with false periodic account statements showing that participants' funds were invested in the Futures Pool when, in fact, such participants' funds were misappropriated by the defendants. Specifically, the defendants represented on their website, www.parisheconomics.com, and to an Investment Advisor (IA) that at the end of 2006 the total value of the investment pools was approximately $134 million, and that the value of the Futures Pool was approximately $52 million. On March 21, 2007, defendants provided the IA with a futures account trading statement purporting to show that the Futures Pool had an account value as of February 28, 2007, of approximately $52 million. However, according to the complaint, the defendants only had three open futures accounts that, as of February 28, 2007, had a cumulative value of only $120,000. The complaint further alleges that the defendants provided account statements to at least three Futures Pool participants that, in the aggregate, represented that the Futures Pool had a value of at least $407,243.93 at the end of 2005, $645,181.40 at the end of 2006, and $970,299.88 as of February 28, 2007. In reality, since January 1, 2005, the total value of Futures Pool assets never exceeded $150,000, the complaint alleges. Finally, the complaint charges the defendants with failing to register with the CFTC and to operate the Futures Pool consistent with federal law. The Commission received cooperation form the SEC and the United States Attorney's Office for the District of South Carolina in connection with this matter. *CFTC v. Parish, et al.*, No. 2:07-cv-01044-DCN (D.S.C. filed April 17, 2007).

45. **<u>CFTC v. Demasi, et al.</u>** On April 25, 2007, the Commission filed an injunctive enforcement action against Anthony A. Demasi and his company, Tsunami Capital, LLC. The complaint alleges that, from at least December 2004 to the present, Demasi and Tsunami Capital fraudulently solicited and accepted at least $300,000 from at least three individuals for the purpose of trading financial futures as part of a commodity pool called Tsunami Lakeshore. As alleged, Demasi convinced at least one pool participant to invest by providing him with a false track record that showed two years of trading profits, when, in fact, Tsunami Lakeshore did not have an active account during most of the period and had lost money during the months when it did. The complaint also alleges that Demasi and Tsunami Capital distributed false statements to at least two pool participants throughout 2005 showing that their investments were earning substantial profits in 2005 and the first quarter of 2006. However, the Tsunami Lakeshore trading account was closed in January 2005, and the only other trading accounts maintained by Tsunami Capital sustained losses or were less profitable than represented in five of the six quarterly statements they received. On April 26, 2007, the court issued a statutory restraining order freezing assets and preserving books and records. *CFTC v. Demasi, et al.,* No. 07C 2256 (N.D. Ill. filed April 25, 2007).

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