

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

<hr/>		FILED: FEBRUARY 3, 2009
UNITED STATES SECURITIES)	09CV683
AND EXCHANGE COMMISSION,)	JUDGE ZAGEL
)	MAGISTRATE JUDGE VALDEZ
)	AO
Plaintiff,)	
)	CIVIL ACTION
v.)	FILE NO.
)	
SCOTT M. ROSS,)	
)	
Defendant.)	
<hr/>		

COMPLAINT

Plaintiff, the United States Securities and Exchange Commission (“SEC”), alleges as follows:

INTRODUCTION

1. This matter involves a securities offering fraud in which, beginning at some point in 2007, Defendant Scott M. Ross (“Ross”), a resident of Gilberts, Illinois, solicited approximately 300 investors to invest at least \$10 million in at least three purported private investment funds.

2. On January 29, 2009, Ross admitted to the staff of the SEC’s Chicago Regional Office that he had misappropriated approximately \$2 million from at least one of those investment funds. In addition, Ross admitted that he took an undetermined amount in undisclosed commissions from another of those investment funds. Among other things, Ross also admitted to using money from one fund to pay returns to investors in another fund.

3. Accordingly, Ross, directly and indirectly, has engaged in transactions, acts, practices and courses of business that constitute violations of Section 17(a) of the Securities Act

of 1933 (the “Securities Act”) [15 U.S.C. §77(q)(a)], Section 10(b) of the Securities Exchange Act of 1934 (the “Exchange Act”) [15 U.S.C. §78j(b)] and Rule 10b-5 [17 C.F.R. §240.10b-5] promulgated thereunder.

4. The SEC brings this action to enjoin such transactions, acts, practices, and courses of business pursuant to Section 20(b) of the Securities Act [15 U.S.C. §77t(b)] and Sections 21(d) and 21(e) of the Exchange Act [15 U.S.C. §§78u(d) and 78u(e)].

JURISDICTION AND VENUE

5. This Court has jurisdiction over the subject matter of this action pursuant to Section 22(a) of the Securities Act [15 U.S.C. §77v(a)], Section 27 of the Exchange Act [15 U.S.C. §78aa] and 28 U.S.C. §1331. Venue is proper in this district pursuant to Section 27 of the Exchange Act [15 U.S.C. §78aa].

6. Ross resides in Gilberts, Illinois, located in the Northern District of Illinois. The transactions, acts, practices, and courses of business constituting the violations alleged herein have occurred within the jurisdiction of the United States District Court for the Northern District of Illinois and elsewhere.

7. Ross, directly and indirectly, has made use of the means and instrumentalities of interstate commerce and of the mails in connection with the transactions, acts, practices, and courses of business alleged herein in the Northern District of Illinois and elsewhere.

8. There is a reasonable likelihood that Ross will, unless enjoined, continue to engage in the transactions, acts, practices and courses of business set forth in this complaint, and transactions, acts, practices and courses of business of similar purport and object.

BACKGROUND

9. Defendant Ross is 40 years of age and resides in Gilberts, Illinois. For at least the past several years, Ross has purportedly managed a number of private investment funds for which he solicited investments from individual investors. Ross holds a degree in Communications from New Mexico State University. Ross has described himself as the Senior Managing Partner of Harbor Wealth Management Group, LLC, a comprehensive wealth and investment firm, and its subsidiaries, Harbor Private Funds, LLC and Harbor Capital Funds, LLC and as a “sought-after expert on financial topics and strategies.”

10. On January 29, 2009, Ross and his counsel voluntarily met with the staff of the SEC in the Chicago Regional Office. During that meeting Ross described and admitted to engaging in the fraudulent scheme alleged in this Complaint.

THE FRAUDULENT SCHEME

Ross Raised Money for Investment Funds

11. In 2007, Ross established and began raising money for a new investment fund, Elucido Fund LP (“Elucido”). Ross told investors in Elucido that they would provide cash to purchase interests in Elucido and that their investments would be pooled with those of others and invested in life settlement contracts. According to Ross, as of November 2008, when the last Elucido interests were sold to new investors, Ross had raised approximately \$1.9 million for that fund.

12. The interests Ross sold in Elucido are securities.

13. At approximately the same time that he started to raise money for Elucido, Ross was also raising money for another fund (the “Moondoggie Fund”). Ross told investors in the Moondoggie Fund that their money would be pooled and used to purchase stock in a company

called Moondoggie Technologies. In total, Ross raised between \$1.5 million and \$2.0 million for the Moondoggie Fund.

14. Ross raised money for the Moondoggie Fund in three tranches. Ross told the first group of investors that Moondoggie shares would be purchased for \$0.37/share. He told the second group that the shares would be purchased for \$0.875/share. Ross told the third group that Moondoggie shares would be purchased for \$1.75 per share. Ross told all three groups of investors that Moondoggie Technologies would repurchase its shares from the Fund in October of 2009 for \$3.75/share.

15. The investments Ross sold in the Moondoggie Fund were securities.

16. Ross also raised between \$6 million and \$7 million for the Maize Fund LP (“Maize Fund”). Ross told investors in the Maize Fund that their money would be pooled and invested in a Forex Account in which traders would engage in arbitrage currency trading between the Dollar and the Euro. Maize Fund investors understood that Ross would take 2% of the assets in the fund as a management fee. Ross employed an individual to serve as the Maize Fund’s chief trader (the “Maize Chief Trader”). The Maize Chief Trader and other Maize Fund traders worked out of a loft apartment that Ross leased in a luxury loft apartment complex in Houston, Texas.

17. The interests Ross sold in the Maize Fund are securities.

Ross Misappropriated Approximately \$2 Million from Elucido, Misrepresented that Fund’s Activities to its Investors, and Made Additional Misrepresentations to Investors in his Other Funds

18. Despite what Ross told Elucido’s investors, none of the money Ross raised for that fund was ever invested in life settlement contracts. Instead, Ross used nearly all of the funds he raised for Elucido for improper purposes.

19. For example, at some point, Ross realized that the 2% management fee he took from the Maize Fund was not sufficient to cover expenses for that fund. Accordingly, Ross dipped into funds invested in the Elucido Fund to cover those expenses. Among other things, Ross used investors' funds from Elucido to: (1) pay the salaries of his employees, including his own annual salary of \$319,000, the salaries of his Schaumburg office employees and the salaries of the Maize Fund's traders in Houston; (2) make lease payments on his office space in Schaumburg, Illinois and on the loft Ross rented for the Maize Fund's traders in Houston; and (3) purchase a \$75,000-per-year skybox at the football stadium of the Indianapolis Colts.

20. Ross also used between \$600,000 and \$700,000 of Elucido investors' money to repay a separate group of investors that wanted to redeem their interests in the Moondoggie Fund when those investors became aware that Moondoggie was not likely to be able to repurchase its shares from the Fund in October of 2009.

21. Ross also failed to maintain strict separation of the assets invested in his funds; monies invested in the Elucido Fund, the Moondoggie Fund, and the Maize Fund were, to at least some extent, commingled.

22. Ross also took an undisclosed commission on the purchases of Moondoggie shares he made with investors' money. The first group of Moondoggie investors believed that shares were purchased for the fund at a price of \$0.37/share. In reality, Ross purchased the shares for \$0.20/share and kept the rest of the money for himself. Similarly, the second and third groups of Moondoggie investors were told that shares were purchased for the fund at \$0.875/share and \$1.75/share, respectively. In reality, Ross purchased the shares for \$0.50/share and \$1.00/share and kept the rest of the money for himself.

The Scheme Begins to Unravel and Ross Confesses

23. At some point in late 2008, Ross informed the Maize Chief Trader of what he characterized as his “difficulties” with the Elucido funds.

24. In December 2008, Ross sent a letter to Elucido’s investors falsely claiming that “given the dramatic change in market conditions for wholesale life settlement policies since the Partnership began its operations last year, the Partnership’s general partner . . . has made the decision to wind-down the Partnership’s investment program by December 31, 2008.” Ross’s letter to Elucido investors advises them that they might expect the return of their capital in six months and thanks the investors for their patience “as we diligently and faithfully work through this process.” In reality, by the time he sent the December 2008 letter to Elucido investors, Ross had already fully depleted the fund’s assets

25. On January 28, 2009, the Maize Chief Trader advised Ross that she wished immediately to end her association with the Maize Fund. She told Ross that she had hedged all of the positions in Maize’s Forex account and that she would no longer manage the open positions in that account. Ross has advised the SEC staff that Maize’s Forex account contains both significant equity positions as well as significant open positions that Ross, who has no experience with currency arbitrage trading, is not able to manage without the assistance of an experienced trader.

The Need for Emergency Relief to Safeguard Remaining Assets

26. Investor funds in Ross’s custody and control continue to be at risk of further dissipation. For instance, Ross informed the SEC staff that the Maize Fund’s Forex account is subject to fees of approximately \$1000 per day and that the open positions in the account, which are no longer being managed by an experienced trader, may also be subject to further diminution

in value by the operation of market forces. Ross informed the SEC staff that the Maize Fund also has assets in several bank accounts that also remain at risk.

COUNT I
Violations of Section 17(a)(1) of the Securities Act

27. Paragraphs 1 through 26 are realleged and incorporated by reference as if set forth fully herein.

28. From in or about 2007 through the present, Ross, in the offer and sale of securities, by the use of the means and instruments of transportation and communication in interstate commerce and by the use of the mails, directly and indirectly, has employed devices, schemes and artifices to defraud.

29. With respect to the representations Ross made to investors described in paragraphs 27 and 28 above, Ross either knew that those representations were false or was reckless in disregarding a substantial risk that they were false.

30. By reason of the activities described in paragraphs 27 through 29 above, Ross has violated Section 17(a)(1) of the Securities Act [15 U.S.C. §77q(a)(1)].

COUNT II
Violations of Section 17(a)(2) and 17(a)(3) of the Securities Act

31. Paragraphs 1 through 30 are realleged and incorporated by reference as if set forth fully herein.

32. From in or about 2007 through the present, Ross, in the offer and sale of securities, by the use of the means and instruments of transportation and communication in interstate commerce and by the use of the mails, directly and indirectly, has obtained money and property by means of untrue statements of material fact or omissions to state material facts necessary in order to make the statements made, in the light of the circumstances under which

they were made, not misleading, and has engaged in transactions, practices or courses of business which have operated as a fraud and deceit upon purchasers of securities.

33. By reason of the activities described in paragraphs 31 and 32 above, Ross has violated Sections 17(a)(2) and 17(a)(3) of the Securities Act [15 U.S.C. §77q(a)(2) and §77q(a)(3)].

COUNT III
**Violations of Section 10(b) of the
Exchange Act and Rule 10b-5 Promulgated Thereunder**

34. Paragraphs 1 through 33 are realleged and incorporated by reference as if set forth fully herein.

35. From in or about 2007 through the present, Ross, in connection with the purchase and sale of securities, directly and indirectly, by the use of the means and instrumentalities of interstate commerce and of the mails, has employed devices, schemes and artifices to defraud; has made untrue statements of material fact and has omitted to state material facts necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading; and has engaged in acts, practices and courses of business which operated as a fraud and deceit upon purchasers of securities.

36. With respect to the representations Ross made to investors described in paragraphs 34 and 35 above, Ross either knew that those representations were false or was reckless in disregarding a substantial risk that they were false.

37. By reason of the activities described in paragraphs 34 through 36 above, Ross has violated Section 10(b) of the Exchange Act [15 U.S.C. §§78j(b)] and Rule 10b-5 [17 C.F.R. §240.10b-5] promulgated thereunder.

PRAYER FOR RELIEF

WHEREFORE, the SEC requests that the Court:

I.

Find that Defendant Ross committed the violations charged and alleged herein.

II.

Grant Orders of Preliminary and Permanent Injunction, in a form consistent with Rule 65(d) of the Federal Rules of Civil Procedure, preliminarily and permanently restraining and enjoining Defendant Ross, his officers, agents, servants, employees, attorneys and those persons in active concert or participation with them who receive actual notice of the Order, by personal service or otherwise, and each of them from, directly or indirectly, engaging in the transactions, acts, practices or courses of business described above, or in conduct of similar purport and object, in violation of Sections 17(a)(1), 17(a)(2) and 17(a)(3) of the Securities Act [15 U.S.C. §§77q(a)(1), 77q(a)(2), and 77q(a)(3)], Sections 10(b) of the Exchange Act [15 U.S.C. §§78j(b)] and Rules 10b-5 [17 C.F.R. §§240.10b-5] promulgated thereunder.

III.

Issue an Order requiring Defendant Ross to disgorge the ill-gotten gains that he received as a result of his wrongful conduct, including prejudgment interest.

IV.

With regard to Defendant Ross's violative acts, practices, and courses of business set forth herein issue an Order imposing upon him appropriate civil penalties pursuant to Section 20(d) of the Securities Act [15 U.S.C. § 77t(d)] and Section 21(d)(3) of the Exchange Act [15 U.S.C. §§78u(d)(3)].

V.

Retain jurisdiction of this action in accordance with the principals of equity and the Federal Rules of Civil Procedure in order to implement and carry out the terms of all orders and decrees that may be entered or to entertain any suitable application or motion for additional relief within the jurisdiction of this Court.

VI.

Grant appropriate emergency relief to prevent further secretion or dissipation of assets purchased with investor funds.

VII.

Grant an Order for any other relief this Court deems appropriate.

Respectfully Submitted,

s/ Charles J. Kerstetter
Andrew P. O'Brien
Charles J. Kerstetter
Peter K.M. Chan
Attorneys for Plaintiff
U.S. SECURITIES
AND EXCHANGE COMMISSION
175 West Jackson Boulevard
Chicago, Illinois 60604
Telephone: (312) 886-3215
Facsimile: (312) 353-7398

Dated: February 3, 2008