

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

**CASE NO.
08-81565-CIV-HURLEY/HOPKINS**
SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

**CREATIVE CAPITAL CONSORTIUM, LLC,
A CREATIVE CAPITAL CONCEPTS, LLC, and
GEORGE L. THEODULE,**

Defendants.

COMPLAINT FOR INJUNCTIVE AND OTHER RELIEF

Plaintiff Securities and Exchange Commission alleges:

INTRODUCTION

1. The Commission brings this action to enjoin Creative Capital Consortium, LLC (“Consortium”), A Creative Capital Concept\$, LLC (“Concept\$”) (collectively “Creative Capital” or “the Companies”), and George L. Theodule from continuing to defraud investors through their violations of the antifraud provisions of the federal securities laws.

2. From at least November 2007 to the present, Theodule, directly and through the Companies, has raised at least \$23.4 million from thousands of investors in an ongoing fraud and Ponzi scheme targeting mostly Haitian and Haitian-American investors nationwide.

3. Theodule solicits investments for the Companies primarily during in-person presentations where he guarantees prospective investors a 100% return on their investment within 90 days based on his successful trading of stocks and options.

4. In reality, Theodule has lost at least \$18 million trading stocks and options over the last year. In addition, Creative Capital merely repaid earlier investors with approximately

\$15.2 million collected from new investors in typical Ponzi scheme fashion. Finally, Theodule has commingled investor funds with his personal funds and misappropriated at least \$3.8 million for himself and his family members.

5. As recently as mid-December, the Defendants have continued to solicit new investors and repeated the false claims about Theodule's trading prowess.

6. Through this ongoing fraudulent conduct, the Defendants have violated and, unless restrained and enjoined, will continue to violate Section 10(b) of the Securities Exchange Act of 1934 ("Exchange Act") [15 U.S.C. § 78j(b)], and Rule 10b-5 promulgated thereunder [17 C.F.R. § 240.10b-5].

DEFENDANTS

7. Concept\$ is an inactive Florida limited liability company organized in November 2007. Theodule is Concept\$'s manager, along with two other individuals. Concept\$ was the initial entity Theodule used to raise funds from investors until he formed Consortium.

8. Consortium is a Florida limited liability company organized in January 2008 with its principal place of business in Lake Worth, Florida. Consortium became the primary entity through which Theodule raised investor funds and transacted business with investment clubs.

9. Theodule, 48, currently resides in Loganville, Georgia, where he relocated from Wellington, Florida in September 2008. He is the managing member of the Companies and solicited investors.

JURISDICTION AND VENUE

10. The Court has jurisdiction over this action pursuant to Sections 21(d), 21(e), and 27 of the Exchange Act [15 U.S.C. §§ 78u(d), 78u(e), and 78aa].

11. The Court has personal jurisdiction over the Defendants, and venue is proper in the Southern District of Florida because many of the Defendants' acts and transactions constituting violations of the Exchange Act occurred in the Southern District of Florida. In addition, Creative Capital's principal place of business is in the Southern District of Florida, and until recently Theodule resided in the Southern District of Florida.

12. In connection with the conduct alleged in this Complaint, the Defendants, directly and indirectly, singly or in concert with others, have made use of the means or instrumentalities of interstate commerce, the means or instruments of transportation and communication in interstate commerce, and the mails.

THE DEFENDANTS' FRAUDULENT INVESTMENT SCHEME

A. Overview of the Scheme

13. The Defendants have engaged in a fraudulent Ponzi scheme primarily targeting the US Haitian community since at least November 2007.

14. Theodule ingratiates himself with investors by claiming he recently decided to offer his investment expertise to help build wealth in the Haitian community. He also tells investors he uses part of his trading profits to fund start-up businesses in the Haitian community, as well as business projects in Haiti and Sierra Leone.

15. The Defendants primarily attract investors through word-of-mouth, and Theodule makes his representations during face-to-face meetings in which he touts his ability to double investor funds in just 90 days. Theodule typically depicts his investment plan and incredible profits trading stocks and options on dry erase boards or flip charts.

16. Theodule also routinely boasts to investors about Creative Capital's high rates of return, and stresses the need to begin investing as soon as possible. He told one investor he had

made millionaires out of a significant number of people in the time it had taken her to decide to invest, and pressured her to liquidate the equity in her home to invest with him.

17. The Defendants' presentations also emphasize the safety and security of investing with them. They guarantee investors 100% returns with no risk, and claim to invest in the stocks and options of well-known companies such as Google, John Deere, Monsanto, Best Buy, GameStop, and others.

18. Since the commencement of the investment scheme, the Defendants have raised more than \$23.4 million from thousands of investors nationwide.

B. Investor Funds Are Also Raised Through a Network of Investment Clubs

19. To add to investors' sense of security, Theodule directs prospective investors to form "investment clubs," which a purported self-regulatory agency, Smart Investment Management Services, LLC ("SIMS"), helps the investors form. This entity also supposedly protects investors through independent verification of their deposits.

20. In reality, SIMS is a private company run by a former Creative Capital employee and not a regulatory entity.

21. The investment clubs pool investor funds and send them to Creative Capital for a 90-day period, during which Theodule purportedly trades stocks and options on behalf of the investment club members.

22. Unlike a real investment club, the members do not participate in making investment decisions, rarely have club meetings, and deposit funds exclusively with the Defendants.

23. Thus, the investment clubs serve principally as vehicles to funnel funds to Theodule and Creative Capital.

24. The investment clubs typically require a minimum \$1,000 investment per investor, which the investor may not withdraw for the 90-day investment period.

25. The investment clubs deposit the investors' funds into their own bank accounts, pool the funds, and remit the money to Creative Capital, minus a 10% club commission.

26. At the end of the 90-day investment period, when the Defendants have purportedly doubled the investment amount, they supposedly return the principal and profits back to the investment clubs, minus a 40% commission on the profits. Prior to distributing the proceeds back to the individual club members, the investment clubs typically charge a second 10% commission on the principal.

C. Fraudulent Misrepresentations and Omissions

27. In connection with Defendants' fraudulent Ponzi scheme, they have made and continue to make numerous material misrepresentations and omissions regarding Creative Capital's business, Theodule's stock trading, and the use of investor funds.

28. For example, Theodule's claim of success trading stocks and options is demonstrably false. Of the more than \$18.3 million deposited in brokerage accounts Theodule controls, he has lost approximately 97% of those funds trading stocks and options. In fact, Theodule has consistently lost money trading in those accounts since November 2007, and has never generated net trading profits.

29. However, Creative Capital hid those losses from current and prospective investors, paying principal and purported profits to existing investment clubs and individual investors of approximately \$15.2 million from new investor funds.

30. Additionally, Theodule claims he uses trading profits to fund new business ventures, some of which benefit the Haitian community in the United States and Haiti, and others in Sierra Leone.

31. In reality, there were no trading profits, and most of the funds the Defendants disbursed went to pay earlier investors their purported profits, not fund business projects.

32. Theodule's representations about the safety and security of investors' funds are also patently false. SIMS is not a regulatory agency, but rather a private entity that was, until recently, headed by a former Creative Capital employee.

33. Further, there is no evidence that SIMS has access to or otherwise verifies the deposits to ensure the safety of investor funds. To the contrary, Theodule has commingled investor funds extensively with his own personal accounts and has misappropriated at least \$3.8 million. This includes net transfers of at least \$1.7 million to his personal bank accounts, cash withdrawals of more than \$1.5 million and more than \$600,000 for apparent personal expenses such as two luxury vehicles, credit card bills, a wedding payment, and a house down payment.

34. Thus, Theodule misrepresented the safety and security of the Creative Capital investments when he led investors to believe: they could withdraw their funds any time after the initial 90-day investment period; there was no risk; and SIMS verified the security of their funds.

CLAIM FOR RELIEF

Fraud in Violation of Section 10(b) of the Exchange Act and Rule 10b-5 Thereunder

35. The Commission repeats and realleges Paragraphs 1 through 34 of the Complaint.

36. Starting no later than November 2007, the Defendants, directly and indirectly, by use of the means and instrumentality of interstate commerce, and of the mails in connection with the purchase or sale of securities, have been knowingly, willfully or recklessly: (a) employing

devices, schemes or artifices to defraud; (b) making untrue statements of material facts and omitting 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; or (c) engaging in acts, practices and courses of business which have operated, are now operating and will operate as a fraud upon the purchasers of such securities.

37. By reason of the foregoing, the Defendants have directly or indirectly violated and, unless restrained and enjoined, will continue to violate Section 10(b) of the Exchange Act [15 U.S.C. § 78j(b)] and Rule 10b-5 [17 C.F.R. § 240.10b-5].

RELIEF REQUESTED

WHEREFORE, the Commission respectfully requests the Court:

I.

Declaratory Relief

Declare, determine and find that the Defendants have committed the violations of the federal securities laws alleged herein.

II.

Temporary Restraining Order, Preliminary Injunction, and Permanent Injunction

Issue a Temporary Restraining Order, a Preliminary Injunction, and a Permanent Injunction, restraining and enjoining the Defendants, their officers, agents, servants, employees, attorneys, and all persons in active concert or participation with them, and each of them, from violating Section 10(b) of the Exchange Act and Rule 10b-5 thereunder, as indicated above.

III.

Asset Freeze and Sworn Accountings

Issue an Order freezing the assets of all Defendants until further Order of the Court and

requiring the Defendants to file with this Court sworn written accountings.

IV.

Repatriation of Investor Proceeds

Issue an Order requiring the Defendants to take such steps as necessary to repatriate to the territory of the United States all funds and assets of investors described in the Commission's Complaint in this action which are held by them or are under their direct or indirect control, and deposit such funds into the registry of the United States District Court for the Southern District of Florida, and provide the Commission and the Court a written description of the funds and assets repatriated.

V.

Records Preservation

Issue an Order prohibiting the destruction of and requiring the Defendants to preserve any records relating to the subject matter of this lawsuit that are in their custody or possession or subject to their control.

VI.

Disgorgement

Issue an Order directing the Defendants to disgorge all ill-gotten gains, including prejudgment interest, resulting from the acts or courses of conduct alleged in this Complaint.

VII.

Penalties

Issue an Order directing the Defendants to pay civil money penalties pursuant to Section 21(d) of the Exchange Act [15 U.S.C. § 78u(d)].

VIII.

Further Relief

Grant such other and further relief as may be necessary and appropriate.


IX.

Retention of Jurisdiction

Further, the Commission respectfully requests that the Court retain jurisdiction over this action in order to implement and carry out the terms of all orders and decrees that it may enter, or to entertain any suitable application or motion by the Commission for additional relief within the jurisdiction of this Court.

December 29, 2008

Respectfully submitted,

By: 

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CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.) **NOTICE: Attorneys MUST Indicate All Re-filed Cases Below.**

<p>I. (a) PLAINTIFFS SECURITIES AND EXCHANGE COMMISSION</p> <p>(b) County of Residence of First Listed Plaintiff _____ (EXCEPT IN U.S. PLAINTIFF CASES)</p> <p>(c) Attorney's (Firm Name, Address, and Telephone Number) Brian K. Barry, Esq., (305) 982-6382 Securities and Exchange Commission 801 Brickell Avenue, Suite 1800, Miami, FL 33131</p>	<p>DEFENDANTS CREATIVE CAPITAL CONSORTIUM, LLC, A CREATIVE CAPITAL CONCEPTS, LLC, and GEORGE L. THEODULE</p> <p>County of Residence of First Listed Defendant <u>Palm Beach</u> (IN U.S. PLAINTIFF CASES ONLY)</p> <p>NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT LAND INVOLVED.</p> <p>Attorneys (If Known)</p>
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FILED by [Signature] D.C.
 DEC 29 2008
 STEVEN M. LARMORE
 CLERK U.S. DIST. CT.
 S.D. OF FLA. - MIAMI

(d) Check County Where Action Arose: MIAMI-DADE MONROE BROWARD PALM BEACH MARTIN ST. LUCAS VOLUPE DIXIE HIGHLANDS

<p>II. BASIS OF JURISDICTION (Place an "X" in One Box Only)</p> <p><input checked="" type="checkbox"/> 1 U.S. Government Plaintiff</p> <p><input type="checkbox"/> 2 U.S. Government Defendant</p> <p><input type="checkbox"/> 3 Federal Question (U.S. Government Not a Party)</p> <p><input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)</p>	<p>III. CITIZENSHIP OF PRINCIPAL PARTY (For Diversity Cases Only)</p> <table border="1" style="width:100%; border-collapse: collapse;"> <tr> <th></th> <th>PTF</th> <th>DEF</th> <th></th> <th>PTF</th> <th>DEF</th> </tr> <tr> <td>Citizen of This State</td> <td><input type="checkbox"/> 1</td> <td><input type="checkbox"/> 1</td> <td>Incorporated or Principal Place of Business In This State</td> <td><input type="checkbox"/> 4</td> <td><input type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td><input type="checkbox"/> 2</td> <td><input type="checkbox"/> 2</td> <td>Incorporated and Principal Place of Business In Another State</td> <td><input type="checkbox"/> 5</td> <td><input type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td><input type="checkbox"/> 3</td> <td><input type="checkbox"/> 3</td> <td>Foreign Nation</td> <td><input type="checkbox"/> 6</td> <td><input type="checkbox"/> 6</td> </tr> </table>		PTF	DEF		PTF	DEF	Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4	Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5	Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6
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IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury PERSONAL INJURY - Med. Malpractice <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395f) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Rucketer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input checked="" type="checkbox"/> 850 Securities Commodities Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS	LABOR	FEDERAL TAX SUITS
<input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/ Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities Employment <input type="checkbox"/> 446 Amer. w/Disabilities Other <input type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	<input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS Third Party 26 USC 7609

V. ORIGIN (Place an "X" in One Box Only)

1 Original Proceeding 2 Removed from State Court 3 Re-filed- (see V1 below) 4 Reinstated or Reopened 5 Transferred from another district (specify) 6 Multidistrict Litigation 7 Appeal to District Judge from Magistrate Judgment

VI. RELATED/RE-FILED CASE(S). (See instructions second page):

a) Re-filed Case YES NO b) Related Cases YES NO

JUDGE _____ DOCKET NUMBER _____

VII. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing and Write a Brief Statement of Cause (Do not cite jurisdictional statutes unless diversity):

15 U.S.C. § 78j(b), 17 C.F.R. § 240.10b-5. Violations of the federal securities laws.

LENGTH OF TRIAL via 8 days estimated (for both sides to try entire case)

VIII. REQUESTED IN COMPLAINT: CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 DEMAND \$ TRO, Asset Freeze, Perm. Inj., disgorgement, civil penalty CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

ABOVE INFORMATION IS TRUE & CORRECT TO THE BEST OF MY KNOWLEDGE

SIGNATURE OF ATTORNEY OF RECORD Brian K. Barry DATE 12/29/08

FOR OFFICE USE ONLY

AMOUNT _____ RECEIPT # _____ IFP _____