

FILED
CHARLOTTE, NC

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U.S. DISTRICT COURT
WESTERN DISTRICT OF NC

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION

UNITED STATES OF AMERICA,

v.

RODNEY W. WHITNEY,

CRIMINAL NO.

BILL OF INFORMATION

Violations:

18 U.S.C. § 1349

18 U.S.C. § 1956(h)

3:11CR49 -FDW

THE UNITED STATES ATTORNEY CHARGES:

INTRODUCTION

1. RODNEY W. WHITNEY ("WHITNEY") was a principal and co-owner of Integra Capital Management, LLC ("Integra"), a North Carolina investment company established in September 2006 for the purpose of investing in commodity futures and foreign currency exchange ("forex") trading through a so-called "commodity pool".

2. Co-conspirator 1 ("CC-1") was a principal and co-owner of Integra.

3. WHITNEY was primarily, but not exclusively, in charge of soliciting investors and CC-1 was primarily, but not exclusively, in charge of the commodity futures and forex trading conducted by Integra.

4. WHITNEY maintained a bank account in the name of Integra at a bank headquartered and with branch offices located within North Carolina. The bank is federally insured by the Federal Deposit Insurance Corporation, and it conducts business in interstate and foreign commerce.

5. The above introductory allegations are realleged and incorporated in each count of this Information as if fully set forth in each count.

COUNT ONE
18 U.S.C. § 1349
(Conspiracy to Commit Mail Fraud, Wire Fraud)

THE CONSPIRACY

6. From in or about September 2006 until in or about January 2009, in and around, in Mecklenberg, Caldwell and Catawba Counties, within the Western District of North Carolina and elsewhere, WHITNEY and CC-1, together, and with others known and unknown, did knowingly and intentionally conspire, combine, confederate and agree to commit certain offenses against the United States, that is:

a. To devise and intend to devise a scheme and artifice to defraud and to obtain money and property by means of materially false and fraudulent pretenses, representations, and promises, and knowingly: (a) placing and causing to be placed in any post office and authorized depository for mail matter, any matter and thing whatever to be sent and delivered by the Postal Service; (b) depositing and causing to be deposited any matter and thing whatever to be sent and delivered by any private or commercial interstate carrier; and (c) causing to be delivered by mail or private or commercial interstate carrier any matter and thing according to the direction thereon, in violation of Title 18, United States Code, Section 1341; and

b. To devise and intend to devise a scheme and artifice to defraud and to obtain money and property by means of materially false and fraudulent pretenses, representations, and promises, and knowingly transmit and cause to be transmitted by means of wire communications in interstate and foreign commerce, any writings, signs, signals, pictures, and sound for the purpose of executing such scheme and artifice, in violation of Title 18, United States Code, Section 1343.

GOAL OF THE CONSPIRACY

7. A goal of the conspiracy was for the co-conspirators, including WHITNEY, to unlawfully enrich themselves by providing false and fraudulent information to current and prospective commodity pool investors to obtain and misappropriate investor funds.

THE MANNER AND MEANS OF THE CONSPIRACY

8. To achieve the goals of the conspiracy, WHITNEY, CC-1, and others used the following manners and means, among others:

a. WHITNEY and CC-1 would agree to persuade, and did persuade, prospective and existing Integra investors, including those residing in the Western District of North Carolina, to invest by misrepresenting, in person and by mail, interstate telephone calls, emails and facsimiles, and in-person meetings, WHITNEY and CC-1's backgrounds, investing experience, Integra's past track record for success, the amount of investment returns that Integra could and did generate, and the use of investor funds;

b. WHITNEY and CC-1 would and did mail, send by facsimile, and personally provide to prospective and existing Integra investors a prospectus for Integra that falsely represented, among other things, that Integra's managers had more than 30 years combined market experience; that Integra paid dividends of 2% to 5% on the investors' initial investment, which was derived from Integra's trading profits; and that investors could remove their principal investments within five days upon giving notice to Integra;

c. WHITNEY and CC-1 would and did make it falsely appear to prospective investors that they were actively and successfully trading commodity futures and forex by sitting at computer terminals in Integra's offices located in High Point, North Carolina, and acting like they were successfully trading when prospective investors visited the offices;

d. WHITNEY and CC-1 would and did intentionally misrepresent to potential and existing investors that Integra was consistently earning a profit from successfully trading commodity futures and forex even though, in truth, Integra consistently lost money trading;

e. WHITNEY and CC-1 would and did mail and send by facsimile to existing investors dividend checks, 1099 IRS tax forms, and account statements, all containing false information in that they purported to show the investors' profits from Integra's trading in commodity futures and forex, when in fact there were none;

f. WHITNEY and CC-1 would and did mail to existing investors, including in the Western District of North Carolina, letters and contracts falsely promising monthly returns of 3% to 5% on their invested principal, and falsely representing that investors could remove their principal investment at any time within five days of giving notice to Integra;

g. WHITNEY and CC-1 would and did use newly obtained investors' funds to pay dividends to investors who had invested earlier, without informing investors of this practice;

h. WHITNEY and CC-1 would and did commingle investors' funds and use those monies for personal purposes, including to purchase real estate, to fund other business ventures, and to purchase automobiles and other goods and services without informing investors of these uses; and

i. WHITNEY and CC-1 would and did communicate with investors, including investors in the Western District of North Carolina, by interstate email and telephone calls and falsely represent the causes of Integra's losses.

In violation of Title 18, United States Code, Section 1349.

COUNT TWO
18 U.S.C. § 1956(h)
(Money Laundering Conspiracy)

9. From in or about September 2006 until in or about January 2009, within North Carolina, in the Western District of North Carolina and elsewhere, WHITNEY and CC-1, along with others known and unknown, did knowingly conspire, combine, confederate, and agree with each other to commit an offense against the United States, that is, knowingly engaging and attempting to engage, in monetary transactions by, through and to a financial institution, affecting interstate and foreign commerce, in criminally derived property of a value greater than \$10,000, such property having been derived from specified unlawful activity, that is, the proceeds of mail fraud and wire fraud, in violation of Title 18, United States Code, Section 1957.

In violation of Title 18, United States Code, Section 1956(h).

FORFEITURE

10. The allegations contained in Count One of this Information are hereby realleged and incorporated by reference for the purpose of alleging forfeiture pursuant to Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461(c).

11. Pursuant to Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461(c), upon conviction of a conspiracy to violate Sections 1341 and 1343, in violation of Title 18, United States Code, Section 1349, the defendant, RODNEY W. WHITNEY, shall forfeit to the United States of America any property, real or personal, which constitutes or is derived from proceeds traceable to said violations.

12. The allegations contained in Count Two of this Information are hereby realleged and reincorporated by reference for the purpose of alleging forfeiture pursuant to Title 18, United States Code, Section 982(a)(1).

13. Pursuant to Title 18, United States Code, Section 982(a)(1), upon conviction of a conspiracy to violate Title 18, United States Code, Section 1957, in violation of Title 18, United States Code, Section 1956(h), the defendant, RODNEY W. WHITNEY, shall forfeit to the United States of America any property, real or personal, involved in such offense, and any property traceable to such property.

14. If any of the property described above, as a result of any act or omission of the defendant:

- a. cannot be located upon the exercise of due diligence;
- b. has been transferred or sold to, or deposited with, a third party;
- c. has been placed beyond the jurisdiction of the Court;

- d. has been substantially diminished in value; or
- e. has been comingled with other property which cannot be divided without difficulty;

the United States of America shall be entitled to forfeiture of substitute property pursuant to Title 21, United States Code, Section 853(p), as incorporated by Title 18, United States Code, Section 982(b)(1) and Title 28, United States Code, Section 2461(c).

Title 18, United States Code, Sections 981 and 982; Title 28, United States Code, Section 2461(c); Rule 32.2 of the Federal Rules of Criminal Procedure.

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