FILED
CHARLOTTE, NC

APR 18 2013

US District Court
Western District of NC

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION

UNITED STATES OF AMERICA v. **JAMES HARVEY MASON**	DOCKET NO. 3:13CR118-FDW **BILL OF INDICTMENT** Violations: 15 U.S.C. § 78j(b) 15 U.S.C. §78ff 17 C.F.R. § 240.10b-5

THE GRAND JURY CHARGES:

At the specified times and at all relevant times:

Relevant Entities and Individuals

1. From in or about July 2010 through in or about March 28, 2013, the defendant JAMES HARVEY MASON ("MASON") executed what is commonly known as a "Ponzi" scheme to defraud investors by inducing them to invest with JHM Forex Only Pool, Forex Trading at Home Association, and other related entities.

2. During the course of the scheme, MASON solicited at least 500 victims to invest over $4,700,000 for the supposed purpose of investing in Over-the-Counter ("OTC") foreign currency exchange.

3. JHM Forex Only Pool, formerly known as The JHM Forex Only Pool, LP was formed in North Carolina on June 28, 2010. The JHM Forex Only Pool was owned and operated by MASON.

4. Forex Trading at Home Association ("FTAH"), was formed in North Carolina on August 26, 2012 and describes itself as a Forex education association and alleges to provide an online training course. This entity was wholly owned by the JHM Forex Only Pool and operated by MASON.

The Investment Fraud Scheme

5. MASON engaged in a scheme and artifice to defraud victims by making a series of false and fraudulent representations, omissions of material facts and deceptive half-truths. Such misrepresentations generally and at various times included the following:

a. MASON claimed to operate a commodity pool for the stated purpose of investing in an Over-the-Counter ("OTC") foreign currency exchange. Investors signed an "Agreement" which typically provided for a 50% split (or sometimes 70/30% split) of net "profits" after fees were paid. Under this agreement, the investor would earn 50% of the purported profit, and JHM Forex Only Pool would keep the remaining share.

b. On October 9, 2012, Mason sent an email to victim-investors guaranteeing one hundred (100%) percent of personally invested capital. In addition, MASON attached a spreadsheet which provided profit predictions for two investment options over a 5-year period. One of the columns showed a $5,000 initial investment becoming over $100 million. The other indicated a $10,000 investment that grew to over $10 million.

c. MASON claimed to have more than thirty-five (35) years experience in commodity futures and options on futures trading. In truth and fact, MASON had no such experience.

d. MASON failed to disclose to investors that in 2000, he had been convicted of wire fraud in violation of 18 U.S.C. § 1343, in the U.S. District Court, District of South Carolina, and sentenced to eighteen months imprisonment, followed by three years of supervised release. MASON's conviction related to his fraudulent activities while acting as a cotton broker involving transactions between cotton suppliers and textile mills.

e. Beginning in or about July 2010, MASON solicited at least 500 victims to invest over $4,700,000.00 in the JHM Forex Only Pool, Forex Trading at Home Association, and other related entities, for the supposed purpose of investing in foreign currency.

f. MASON diverted directly most of his victims' money. Rather than investing it as promised, MASON simply deposited victim money into various bank accounts he controlled and diverted a substantial amount of investor money to real estate, personal expenses, cars, expenses for business, and other expenses unrelated to any foreign exchange. MASON fraudulently spent investor money on the following items set forth below (among others):

i. Approximately $435,000 on his daughter's and son-in-law's residence located at 601 Rachel Smothers Drive, Greensboro, North Carolina, 27455.

ii. Approximately $110,000.00 for a residence and office space located at 2227 Hickory Run, Graham, North Carolina.

iii. Approximately $102,000.00 for a residence and office space located at 2222 Hickory Run, Graham, North Carolina.

iv. Approximately $20,000 on a vehicle for the use and benefit of MASON's business associate, Mr. J.

v. Unknown amounts to credit card payments for MASON's living expenses.

vi. An unknown amount for the purchase of a Lincoln vehicle.

g. MASON diverted most of the rest of his victims' money to make "Ponzi" payments to other victims of approximately $3,000,000. This was because, to induce further investments, MASON honored some individual victim's distribution requests to support the fiction that he was making money through the forex trading market. In truth and fact, as noted, MASON was paying such investors with funds received from other victims in the manner of what is commonly known as a "Ponzi" scheme.

h. Throughout the course of this scheme, and despite collecting over $4,700,000, MASON put only a portion of investor money into foreign currency exchange. MASON lost essentially all the money he did invest while conducting forex trading, thus losing even the minority of funds that he did trade. MASON did not disclose his actual trading results but instead made false oral representations and provided bogus statements to clients, fraudulently reporting profits.

i. During the course of this scheme, and to induce individuals to further invest in his fraudulent foreign currency commodity pool, MASON established a website so that investors could go online and look at their accounts. These online investor accounts depicted that investors were making money through successful forex trading and had in many cases significant amounts of money in their accounts. In truth and fact, the profits stated on individual investor accounts were false. In many cases, there was no actual money in their accounts.

6. On April 3, 2013, MASON confessed to two Special Agents with the North Carolina Department of the Secretary of State, Securities Division, that he (MASON) did not invest the majority of investor funds in the foreign currency exchange system as represented. MASON admitted that he kept the majority of investor money in the JHM Forex Only Pool and FTAH bank accounts until MASON either paid "Ponzi" distributions to investors, or spent the money on personal expenses.

7. MASON further confessed to agents that he was losing money while conducting forex trading even with the minority of funds that he did trade. Despite these losses, MASON provided false information to investors utilizing internet-based online accounts which falsely indicated that MASON was making a profit while conducting forex trading. MASON admitted that the profits stated on individual investor accounts were false and that in many cases there was no actual money in their accounts. MASON stated that there was no more investor money left.

COUNT ONE
(Securities Fraud)

8. The Grand Jury realleges and incorporates by reference herein all of the allegations contained in paragraphs 1 through 7 of the Bill of Indictment, and further alleges that:

9. From in or about July 2010 through in or about March 28, 2013, in Mecklenburg County, within the Western District of North Carolina and elsewhere, the defendant,

JAMES HARVEY MASON

willfully, directly and indirectly, by use of the means and instrumentalities of interstate commerce and the mails, used and employed manipulative and deceptive devices and contrivances by (a) employing devices, schemes, and 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 light of the circumstances under which they were made, not misleading; and (c) engaging in acts, practices, and courses of business which operated and would and did operate as a fraud and deceit upon investors and others, in connection with the sale of securities, to wit: the JHM Forex Only Pool investment contracts.

All in violation of Title 15, United States Code, Sections 78j(b) and 78ff, Title 17, Code of Federal Regulations, Section 240.10b-5.

NOTICE OF FORFEITURE

10. Notice is hereby given of the provisions of 18 U.S.C. § 982 and 28 U.S.C. § 2461(c). Under section 2461(c), criminal forfeiture is applicable to any offenses for which forfeiture is authorized by any other statute, including but not limited to 18 U.S.C. § 981 and all specified unlawful activities listed or referenced in 18 U.S.C. § 1956(c)(7), which are incorporated as to proceeds by section 981(a)(1)(C). The defendant has or had a possessory or legal interest in the following property that is subject to forfeiture in accordance with section 982 and/or section 2461(c):

a. all property involved in the violations alleged in this bill of indictment;

b. all property which is proceeds of such violations; and

c. in the event that any property described in (a) and (b) cannot be located or recovered or has been substantially diminished in value or has been commingled with other property which cannot be divided without difficulty, all other property of the defendant, to the extent of the value of the property described (a) and (b).

11. The following property is subject to forfeiture on one or more of the grounds stated above:

a. any and all currency and monetary instruments that were received during, involved in, or used or intended to be used to facilitate the crimes alleged in this bill of information, including but not limited to the sum of approximately $4,700,000.00 in proceeds and funds involved in the alleged violations.

A TRUE BILL

ANNE M. TOMPKINS
UNITED STATES ATTORNEY

KEVIN M. HARRINGTON
SPECIAL ASSISTANT UNITED STATES ATTORNEY