 AUSA Samuel B. Cole (312) 353-4258

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA

v.

JAMES BRANDOLINO

CRIMINAL COMPLAINT

CASE NUMBER:

I, the undersigned complainant, being duly sworn on oath, state that the following is true and correct to the best of my knowledge and belief: During the period beginning no later than in or about 2003 and continuing to in or about January 2011, at Chicago, in the Northern District of Illinois, Eastern Division, and elsewhere, James Brandolino, defendant herein:

> did knowingly devise and intend to devise a scheme to defraud, and to obtain money and property by means of materially false and fraudulent pretenses, representations, and promises and by material omissions, and for the purpose of executing and attempting to execute the scheme, did knowingly cause to be delivered by the United States Postal Service or commercial carrier according to the direction thereon, a parcel containing an account statement addressed to Investors A and B in Shorewood, Illinois, from Chicago, Illinois, on or about October 26, 2010;

in violation of Title 18, United States Code, Section 1341. I further state that I am a Special Agent with the Federal Bureau of Investigation, and that this complaint is based on the facts contained in the Affidavit which is attached hereto and incorporated herein.

Signature of Complainant
Brent Potter
Special Agent, Federal Bureau of Investigation

Sworn to before me and subscribed in my presence,

January 18, 2011 at Chicago, Illinois
Date — City and State

Michael T. Mason, U.S. Magistrate Judge
Name & Title of Judicial Officer

Signature of Judicial Officer

UNITED STATES DISTRICT COURT)
) SS
NORTHERN DISTRICT OF ILLINOIS)

A F F I D A V I T

I, Brent E. Potter, being duly sworn, state as follows:

1. I am a Special Agent of the Federal Bureau of Investigation ("FBI"), assigned to the Chicago Field Division. I have been employed by the FBI as a Special Agent for approximately 14 years. At this time, I am assigned to an FBI squad dedicated to the investigation of federal wire and mail fraud offenses, as well as related financial crimes. I am the FBI agent assigned to the investigation of James Brandolino, which is being conducted together with the United States Postal Inspection Service.

2. This affidavit is submitted in support of a criminal complaint alleging that James Brandolino has violated Title 18, United States Code, Section 1341. Because this affidavit is being submitted for the limited purpose of establishing probable cause in support of a criminal complaint charging James Brandolino with mail fraud, I have not included each and every fact known to me concerning this investigation. I have set forth only the facts that I believe are necessary to establish probable cause to believe that the defendant committed the offense alleged in the complaint.

3. This affidavit is based on my personal knowledge as well as information provided to me by other law enforcement agents and witnesses.

4. According to records maintained by the National Futures Association ("NFA") (an industry-wide, independent, self-regulatory organization for the United States futures industry), Brandolino has held NFA registrations in various capacities in the commodities brokerage business, including as an "Associated Person," a "Floor Broker" and a "Principal," from May 1997 until

January 2011, with exchange floor trading privileges at the Chicago Board of Trade, which is now part of the CME Group. Brandolino has also been a principal of several commodities trading businesses, including of Brandolino Investment Group ("BIG"), Lloyd Lewis Capital Inc., Falcon Trading Group Incorporated and Falcon Capital Partners LLC.

5. Brandolino voluntarily appeared with his legal counsel at the United States Attorney's Office for the Northern District of Illinois in January 2011 and voluntarily submitted to an interview by the affiant and others including a United States Postal Inspector. Brandolino stated that he was there to confess to a fraud scheme devised and operated by him from approximately 2003 until the present. Brandolino subsequently provided several voluntary oral statements to law enforcement and regulatory officials, including the Commodity Futures Trading Commission ("CFTC"), in which he outlined his scheme. Most of which follows in this affidavit is based on voluntary admissions made by Brandolino.

6. Over the course of the interviews, Brandolino described himself as a hedge fund manager who has, since approximately 2003, solicited a total of about $4.7 million from investors for purported managed futures trading accounts and for a commodity pool investment. Brandolino raised these funds from approximately 48 individuals, who were generally high net worth investors. Brandolino told investors in the managed accounts and in the commodity pool that their funds, with the exception of a commission, would be used to trade futures contracts, primarily CME Group Dow Jones Industrial Average and S&P 500 Equity Index contracts. According to Brandolino, he always told prospective investors and investors that the trading was profitable, even though often times his trading was not profitable.

7. With the exception of about $1.1 million in investor redemptions, Brandolino admitted to losing roughly half of the total invested funds since 2003 through trading and misappropriating most of the remaining funds for his own personal benefit. Brandolino indicated that almost all of the misappropriated funds have been spent, and his assets are limited to a 2003 or 2004 BMW 745, a Rolex watch for which he paid approximately $6000, and an interest in an unbuilt condominium in Greece on which he put down 80,000 Euros. Despite the losses and misappropriations, Brandolino continually advised investors that they were making money and, as recently as approximately October 2010, falsely represented in periodic account statements that their total equity on deposit with Brandolino was approximately $7.5 million. Brandolino admitted creating and distributing false periodic account statements by United States Mail and Federal Express, a commercial interstate carrier, to investors. These periodic account statements, with the exception of the period from in or about May 2007 to in or about July 2008, falsely represented the status of the investments and concealed Brandolino's trading losses and his misappropriation of invested funds.

8. Brandolino began his fraud scheme in 2003 shortly after accepting funds from investors to trade managed futures accounts on their behalf. At that time, Brandolino was operating Lloyd Lewis Capital Inc. as an Introducing Broker ("IB"). As such, Brandolino introduced futures clients, typically small volume traders, to three different Futures Commission Merchants ("FCMs"), which are entities holding registrations as such with the NFA that serve as executing brokers for transactions involving futures contracts and options on futures contracts.

9. Brandolino accepted approximately $1.5 million from approximately 20 investors from 2003 until approximately May 2007 for this managed account futures trading. Brandolino

generated monthly statements for these investors using a software package known as Trade Depot and generally sent the statements by United States Mail from Chicago, Illinois, to investors. The statements were under the name of Lloyd Lewis Capital Inc. and showed steady returns from trading when Brandolino actually started losing money and misappropriating funds shortly after he began managing the accounts.

10. By about mid 2007, Brandolino had lost in trading much of the $1.5 million received from investors in the managed accounts and had misappropriated most of the remainder for himself. Throughout that time, he continued to send false statements to investors through the United States Mail and Federal Express in order to conceal the losses and misappropriations. As a result, investors believed that they had significant equity gains through 2007, even though only a small fraction of their invested funds remained on deposit with Brandolino.

11. Brandolino started a commodity pool known as Falcon Stock Index LP ("FSI") in or around mid-2007. He did not disclose to prospective investors and investors in this fund that he had defrauded his previous managed account investors. Brandolino charged his FSI investors a 2% annual management fee and an incentive fee of 20% on any investment returns. FSI began with approximately 10 investors. Brandolino managed FSI from his office at 141 W. Jackson Blvd., Suite 3332, Chicago, Illinois.

12. From approximately May 2007 until the close of FSI in or around July 2008, Brandolino traded equity index futures on behalf of FSI, earning actual net returns of about 15.5% over that time period. Brandolino decided to close out FSI and cease trading the pool by about July 2008. Brandolino did not tell any of his investors that trading had stopped.

13. After Brandolino closed FSI in about July 2008, he failed to inform investors that FSI had ceased trading and failed to return the investors' money. Instead, Brandolino used the invested

funds to trade in his own name. He regularly lost money in these trades and misappropriated other invested funds for himself. Brandolino covered up the losses and misappropriations by sending bogus quarterly statements to his investors. Brandolino continued to create bogus FSI statements to his investors through approximately October 2010. By October 2010, FSI and Brandolino had essentially no capital, but the statements that he mailed to investors around that time collectively indicated that they had a total equity balance of about $7.5 million.

14. Brandolino used his laptop computer to create and print the false periodic account statements. After printing the statements from his laptop computer, Brandolino usually sent the statements by United States Mail or by Federal Express, if he was running late in sending the statements. In particular, Brandolino delivered a false periodic statement to Investors A and B in Shorewood, Illinois, from Chicago, Illinois, on or about October 26, 2010. This statement was titled "CLIENT TRADING PERFORMANCE" and falsely showed monthly rates of return between March 2007 and September 2010 of between 0.82% and 4.09%. The statement also showed that Investors A and B invested a total of $100,000, but falsely represented that, as of September 2010, they had an account balance of $184,387. (A redacted copy of this false periodic account statement is attached as Government Exhibit A.) Brandolino admitted that he sent a copy of Government Exhibit A to Investors A and B in Shorewood, Illinois, either by mail or Federal Express, on or about October 26, 2010.

15. Brandolino also continued to accept additional funds from investors after July 2008. Brandolino concealed from investors that he had defrauded his managed account investors and earlier commodity pool investors. Brandolino subsequently lost through trading or misappropriated for his own personal benefit almost all of these additional funds.

16. Based on the investigation to date, approximately 48 investors appear to have lost over $3.5 million.

17. Based upon the information set forth above, there is probable cause to believe that defendant James Brandolino knowingly devised and intended to devise a scheme to defraud, and to obtain money and property by means of materially false and fraudulent pretenses, representations, and promises and by material omissions, and for the purpose of executing and attempting to execute the scheme, knowingly caused to be delivered either by the United States Postal Service or by commercial interstate carrier according to the direction thereon, a parcel containing a periodic account statement addressed to Investors A and B in Shorewood, Illinois, from Chicago, Illinois, on or about October 26, 2010, in violation of Title 18, United States Code § 1341.

FURTHER AFFIANT SAYETH NOT.

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Brent E. Potter
Special Agent
Federal Bureau of Investigation

Subscribed and sworn before me this
18th day of January, 2011,
Chicago, Illinois.

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The Honorable Michael T. Mason
United States Magistrate Judge
Northern District of Illinois