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FORMER CBOT MEMBER AND FLOOR TRADER SENTENCED TO FIVE YEARS IN PRISON FOR DEFRAUDING CUSTOMERS OUT OF MORE THAN $2 MILLION

CHICAGO — A former floor trader and member of the Chicago Board of Trade was sentenced yesterday to five years in federal prison for engaging in noncompetitive trades that yielded in excess of $2 million profit to him and a deceased co-defendant, who was also a CBOT member and floor trader. The defendant, **David G. Sklena**, was found guilty last year of four counts of wire fraud, one count of commodities fraud and two counts of noncompetitive trading for scheming to deprive his co-defendant's customers of the opportunity to make the trading profits themselves. He was convicted following a bench trial last October in U.S. District Court.

Sklena, 51, of Skokie, was ordered to begin serving the 60-month sentence on Oct. 31, 2011, by U.S. District Judge Samuel Der-Yeghiayan, who also ordered him to pay $2,048,7871 in restitution to approximately 45 victim customers, including one fund that was a pool of commodity investors. The sentence was announced today by Patrick J. Fitzgerald, United States Attorney for the Northern District of Illinois, and Robert D. Grant, Special Agent-in-Charge of the Chicago Office of the Federal Bureau of Investigation.

According to the evidence at trial, the noncompetitive trades occurred on April 2, 2004, in the CBOT's Five-Year Treasury Note futures trading pit. Sklena and co-defendant Edward C. Sarvey were indicted in March 2009 on fraud charges and violations of the Commodity Exchange Act. Sarvey, of Lemont, died in December 2009 while the case was pending.

The trial evidence showed that Sarvey was a dual trader in that he executed customer orders and traded for his own account, while Sklena traded only for his own account in the Five-Year Treasury Note futures trading pit, where he had been a trader since 1992.

The evidence at trial was that, on April 2, 2004, the U.S. Bureau of Labor Statistics released its Employment Situation Report at approximately 7:30 a.m. and the treasury futures markets went up, then declined, and then rallied within a short period of time. Before the release of the report, Sarvey had accepted customers orders to sell 2,474 contracts if the market dropped to certain levels. Following the release of the employment report, the price of Five-Year Treasury Note futures contracts dropped to the low price of the day at approximately 7:31 a.m., and then climbed higher over the next several minutes. When the market dropped to the day's lowest price, Sarvey's customer orders to sell were triggered, and became orders to sell the contracts as soon as possible at the best price available to the customers.

Sarvey sold 2,274 of the customers' futures contracts to Sklena at a price that was much lower than the price that was actually trading at the time, and the trade was not executed openly and competitively as required by CBOT and Commodity Futures Trading Commission rules. This trade deprived Sarvey's customers of the opportunity to obtain a better price for the sale of their futures contracts. Following Sklena's noncompetitive purchase of the 2,274 contracts from Sarvey, Sklena immediately sold 485 of the contracts back to Sarvey in another noncompetitive trade. Sklena then sold the remaining 1,789 futures contracts on the CBOT's electronic trading platform and realized a personal gain of approximately $1.65 million. The Court found that Sklena's conduct was noncompetitive and that it constituted a scheme to defraud and cheat Sarvey's customers.

The government was represented by Assistant U.S. Attorneys Clifford Histed and Ryan Hedges. The Commodity Futures Trading Commission and the CBOT, now part of the CME Group, Inc., assisted with and cooperated in the investigation.

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