

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA : Crim. 02CR120
:
: Hon. Katharine S. Hayden
:
v. : Title 18, United States Code,
: Sections 371, 1341 and 2.
:
:
CHARLES PAUL HOFFECKER, :
a/k/a "Chip Hoffecker," and :
CHARLES EDWARD MYERS :

INDICTMENT

The Grand Jury in and for the District of New Jersey,
sitting in Newark, charges:

COUNT 1

(Conspiracy to Commit Mail and Wire Fraud)

BACKGROUND

THE DEFENDANTS

1. At all times relevant to this Indictment:

a. Defendant **CHARLES PAUL HOFFECKER, a/k/a "Chip Hoffecker,"** was a resident of Pompano Beach, Florida.

b. Defendant **CHARLES EDWARD MYERS** was a resident of Ft. Lauderdale, Florida and Nassau, Bahamas.

CORPORATE ENTITIES

c. Amitex Investment Services Limited, Inc. ("Amitex") was a Bahamian corporation with offices in Nassau, Bahamas purportedly engaged in the business of selling physical commodities on a financed basis. Defendant **CHARLES PAUL**

HOFFECKER, a/k/a "Chip Hoffecker," was one of the beneficial owners of Amitex and exercised control over the corporation. Defendant **CHARLES EDWARD MYERS** held the position of vice-president at Amitex.

d. Global Investment Services, Inc. ("Global") was a domestic corporation with offices in Atlanta, Georgia engaged in the business of telemarketing investments to individual customers. Defendant **CHARLES PAUL HOFFECKER, a/k/a "Chip Hoffecker,"** exercised control over the corporation.

THE LEVERAGED PHYSICAL COMMODITY INVESTMENT PROGRAM

e. Global offered to individuals investments in precious metals, heating oil and other commodities through Amitex' Leveraged Physical Commodity Investment Program ("LPCIP"). Under this program, Amitex and Global represented to Global's clients that they purchased actual physical commodities and stored these commodities on behalf of Global's clients in insured storage facilities located outside of the United States in exchange for a monthly storage fee.

f. Also as part of the LPCIP, Amitex loaned money to Global's clients to permit the clients to, finance or, leverage their commodity investments. According to the account agreements signed by Global's clients, Amitex financed up to 80 percent of a client's investment at an annual interest rate of approximately 12 percent. The account agreements represented that these loans were secured by the commodities purportedly purchased.

g. With respect to commodities purportedly purchased by investors under the LPCIP, Global received a commission of 15 percent of the full purchase price of the commodity, including the amount financed by Amitex. Global subtracted the commissions from the clients' initial payments for their commodities before it forwarded the clients' funds to Amitex.

h. Pursuant to the account agreements signed by Global's clients, in the event that the amount of a client's equity in a commodity held at Amitex fell below a certain percentage of the commodity's current market value, the client was required to either liquidate the investment at a loss or forward additional funds to Amitex, through Global.

THE VICTIM

j. H.D., a resident of Gloucester County, New Jersey was a client of Amitex and Global.

THE UNDERCOVER INVESTIGATION

2. From in or about 1996 to in or about 1998, the Federal Bureau of Investigation and the United States Postal Inspection Service operated a nationwide undercover operation into the investment telemarketing industry. During the course of the investigation, federal agents utilized an undercover business known as Interactive Technologies and/or Commodity Investors Corporation. Inc. [hereinafter collectively as "CIC"], located in East Brunswick, New Jersey. CIC was established to infiltrate the industry to identify fraudulent investment sales practices.

"Peter Sanders," an identity created as part of the undercover operation, was used by law enforcement to purchase investments, including commodities from Amitex.

THE CONSPIRACY

3. From at least as early as in or about 1996 to in or about March 1998, in the District of New Jersey, and elsewhere, defendants

**CHARLES PAUL HOFFECKER, a/k/a "Chip Hoffecker," and
CHARLES EDWARD MYERS**

did knowingly and willfully conspire and agree with each other and with others to commit offenses against the United States, that is to devise a scheme and artifice to defraud investors in the Amitex' LPCIP and to obtain money from the investors by means of material false and fraudulent pretenses, representations, and promises, and for the purpose of executing that scheme and artifice, caused to be placed in a post office and authorized depository for mail matter, matters and things to be sent and delivered by the Postal Service and caused to be deposited matters and things to be sent and delivered by private and commercial interstate carriers, and caused to be transmitted by means of interstate and foreign wire communications, writings, signs, signals and sounds, contrary to Title 18, United States Code, Sections 1341 and 1343.

GOAL OF THE CONSPIRACY

4. The principal goal of the conspiracy was to defraud investors of millions of dollars by making material false and

fraudulent statements and representations and by failing to disclose material facts regarding the investments offered by Amitex, including, among other things, that Amitex: (a) did not purchase the agreed upon commodities; and (b) charged the investors interest for loans that were never made.

THE MEANS AND METHODS OF THE CONSPIRACY

5. It was part of the conspiracy that defendants **CHARLES PAUL HOFFECKER, a/k/a "Chip Hoffecker,"** and **CHARLES EDWARD MYERS** intentionally concealed and failed to disclose to investors in the LPCIP that, as a result of a lawsuit brought by the Federal Trade Commission in 1991, defendant **CHARLES PAUL HOFFECKER, a/k/a "Chip Hoffecker,"** was permanently prohibited from selling, or offering to sell, precious metal on a financed basis. As a result of this prohibition, beginning at least as early as 1996, defendants **CHARLES PAUL HOFFECKER, a/k/a "Chip Hoffecker,"** and **CHARLES EDWARD MYERS** and their co-conspirators ("the conspirators"), operated Amitex outside the United States and claimed that they did not engage in transactions involving commodity futures or options in order to avoid regulation by the U.S. Commodity Futures Trading Commission and other U.S. regulatory authorities.

6. It was part of the conspiracy that defendants **CHARLES PAUL HOFFECKER, a/k/a "Chip Hoffecker,"** and **CHARLES EDWARD MYERS** sold and offered to sell commodities using telemarketing salesrooms in the United States.

7. It was further part of the conspiracy that

defendants **CHARLES PAUL HOFFECKER, a/k/a "Chip Hoffecker,"** and **CHARLES EDWARD MYERS** sought to enlist and enlisted additional telemarketing salesrooms, including CIC in East Brunswick, New Jersey, to sell Amitex' LPCIP.

8. It was further a part of the conspiracy that salespersons contacted the investors by telephone and sent the investors materials that falsely and fraudulently described the nature and terms of the Amitex investment, including falsely stating the commodities would be purchased and funds would be lent to the investor to finance the purchase.

9. It was further a part of the conspiracy that salespersons directed investors to send the initial payment to the salesroom. These funds were then deposited into banks outside the United States.

10. It was further a part of the conspiracy that investors were required to execute loan agreements for the leveraged, or financed, portion of their investments.

11. It was further a part of the conspiracy that defendants **CHARLES PAUL HOFFECKER, a/k/a "Chip Hoffecker,"** and **CHARLES EDWARD MYERS** failed to purchase the commodities on behalf of the LPCIP investors and charged the investors interest on loans purportedly made to finance such purchases. These interest charges were satisfied by drawing off a portion of the investors' equity interest in their investment.

12. It was further part of the conspiracy that defendants **CHARLES PAUL HOFFECKER, a/k/a "Chip Hoffecker,"** and **CHARLES EDWARD MYERS** and other conspirators caused monthly

account statements to be sent to investors, which fraudulently purported to reflect that actual physical commodities had been purchased and were being held on investors' behalf.

Overt Acts

13. In furtherance of the conspiracy and to accomplish its unlawful objects, defendants **CHARLES PAUL HOFFECKER, a/k/a "Chip Hoffecker,"** and **CHARLES EDWARD MYERS** and their co-conspirators committed and caused to be committed the following overt acts in the District of New Jersey, and elsewhere:

H.D.

c. On or about June 4, 1997, Global sent H.D. via the U.S. mail a brochure for the Amitex investment containing the false and fraudulent representations that Amitex used investors' funds to purchase the agreed upon commodities and lent additional funds to the investors to leverage their investments.

d. On or about June 23, 1997, Global sent H.D. via the U.S. mail a statement purporting to confirm a down payment of approximately \$2,210 and the purchase of approximately \$11,050 of unleaded gas.

e. On or about August 31, 1997, Amitex sent H.D. via the U.S. mail an account statement purporting to show that the account had a market value of approximately \$53,700 and a loan balance of approximately \$43,656.

f. On or about March 4, 1998, Amitex sent H.D. via Federal Express a letter containing a bank draft for approximately \$4,039, which represented the remaining balance of the funds in the account.

CIC

g. On or about February 24, 1997, defendant **CHARLES PAUL HOFFECKER, a/k/a "Chip Hoffecker,"** traveled from Fort Lauderdale, Florida to East Brunswick, New Jersey for the purpose of recruiting the operators of CIC to sell the Amitex investment.

h. On or about February 24, 1997, a Federal Express package containing Amitex offering materials with false representations and material omissions was sent by Global in Atlanta, Georgia to CIC in East Brunswick, New Jersey.

i. On or about February 27, 1997, a Federal Express package containing additional Amitex offering materials was sent by Amitex from Nassau, Bahamas to CIC in East Brunswick, New Jersey.

j. On or about March 19, 1997, a facsimile transmission was received at CIC in East Brunswick, New Jersey from Amitex in the Bahamas. The fax was entitled "MASTER ACCOUNT FOR COMMODITY INVESTORS CORP." and showed the opening account balance for the account of "Peter Sanders" as of March 18, 1997.

All in violation of Title 18, United States Code, Section 371.

COUNT 2-4

(Mail Fraud)

1. The allegations set forth in paragraphs 1, 2 and 5 through 13 of Count 1 of this Indictment are hereby realleged and incorporated as though set forth in full herein.

2. From at least as early as in or about 1996 to in or about March 1998, in the District of New Jersey and elsewhere, defendants

**CHARLES PAUL HOFFECKER, a/k/a "Chip Hoffecker" and
CHARLES EDWARD MYERS**

did knowingly and willfully devise and intend to devise a scheme and artifice to defraud investors in the Amitex LPCIP and to obtain money from those investors by means of material false and fraudulent pretenses, representations and promises, which scheme and artifice was in substance as set forth in paragraphs 1 and 5 through 10 of Count 1 of this Indictment.

3. On or about the dates set forth below, in the District of New Jersey and elsewhere, defendants

**CHARLES PAUL HOFFECKER, a/k/a "Chip Hoffecker" and
CHARLES EDWARD MYERS**

for the purpose of executing the scheme and artifice and attempting to do so, did knowingly and willfully cause to be placed in a post office and authorized depository for mail matter the following matters and things to be sent and delivered by the Postal Service, and cause to be deposited matters and things to be sent and delivered by a private and commercial interstate carrier:

COUNT DATE ITEM

- 2 June 23, 1997 A confirmation statement sent from Global to H.D. in New Jersey via the U.S. mail documenting a down payment of approximately \$2,210 and the purchase of approximately \$11,050 of unleaded gas.
- 3 August 31, 1997 An account statement sent from Amitex to H.D. in New Jersey via the U.S. mail stating that H.D.'s account had a market value of approximately \$53,700 and a loan balance of approximately \$43,656.
- 4 March 4, 1998 A letter sent from Amitex to H.D. in New Jersey via Federal Express, containing a bank draft for approximately \$4,039 that represented the balance of the funds in the account.

In violation of Title 18, United States Code, Sections
1341 and 2.

A TRUE BILL:

FOREPERSON

CHRISTOPHER J. CHRISTIE
United States Attorney