



*United States Attorney  
Southern District of New York*

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**SUPERSEDING INDICTMENT ALLEGING ADDITIONAL  
BANK FRAUD CHARGES RETURNED AGAINST LAWYER  
IN CONNECTION WITH REFCO FRAUD**

LEV L. DASSIN, Acting United States Attorney for the Southern District of New York, announced today the return of a Superseding Indictment against attorney JOSEPH P. COLLINS, who previously served as principal outside counsel to the former Manhattan-based financial services company Refco. The Superseding Indictment contains new allegations relating to COLLINS's involvement in Refco's successful efforts, from 2000 through 2003, to obtain, through fraud, revolving lines of credit in the hundreds of millions of dollars.

Specifically, the Superseding Indictment alleges that Refco's management, with COLLINS's assistance, concealed from a group of banks led by The Chase Manhattan Bank -- and its successor JPMorgan Chase Bank -- the existence of various "Round Trip Loan Transactions," including more than \$2 billion in guarantees provided by Refco to third parties in connection with those transactions, all in an effort to secure lines of credit totaling more than \$1 billion. The Superseding Indictment contains four new bank fraud charges relating to this newly alleged conduct.

According to the previous Indictment against COLLINS and the Superseding Indictment filed today in Manhattan federal court:

As a result of a massive fraud in which COLLINS actively participated, Thomas H. Lee Partners, L.P., purchased a majority interest in Refco through a \$1.9 billion leveraged buyout ("LBO") transaction in August 2004, having been deceived about the true financial health of the business. The buyout was financed by approximately \$500 million in cash from Thomas H. Lee Partners, L.P., \$600 million in notes sold by Refco to private investors, and approximately \$800 million borrowed from a

syndicate of banks. In August 2005, as part of the same fraud, Refco -- with the assistance of COLLINS -- conducted an initial public offering ("IPO") of its stock, raising approximately \$583 million from the public, also based on false and misleading statements about Refco's financial situation. Refco's stock was then listed on the New York Stock Exchange. Within several months of the IPO, several aspects of the fraud at Refco were discovered and made public, causing Refco to go into bankruptcy and its stock to be delisted from the New York Stock Exchange.

COLLINS played an important role in the fraud: knowingly making affirmative misrepresentations, participating in material omissions, and telling deceptive half-truths in order to assist PHILLIP R. BENNETT -- former Chief Executive Officer and 50% owner of Refco -- and others to achieve the ultimate objective of their shared scheme -- to steal more than \$2.4 billion from potential investors and lenders. COLLINS, among other things:

- \* participated in BENNETT's scheme to falsify Refco's financial statements by hiding from Refco's auditors an enormous debt owed to Refco by a holding company partially owned by BENNETT. This debt had ballooned to more than \$1 billion by January 2004. Specifically, COLLINS (and lawyers at his firm working at his direction) drafted (or caused to be drafted) documents, on at least 17 different occasions from February 2000 through October 2005, which routed more than approximately \$5.5 billion dollars of loans from Refco to BENNETT's company through various third parties. As COLLINS knew and as reflected in the documents, these loans were made shortly before -- and reversed shortly after -- Refco's fiscal year- and quarter-ends. During those brief periods, BENNETT used the loans to pay down the debt his company owed to Refco, only to have the debt return once the transactions (defined in the Indictment as "Round Trip Loan Transactions") were reversed. These transactions concealed the size of Refco's related-party debt in that they made it appear that the debt owed by BENNETT's company was significantly smaller than it really was.
  
- \* falsely represented to Thomas H. Lee Partners and others that, among other things, all material contracts and related party transactions had been disclosed to Thomas H. Lee Partners. At the time he made these representations, COLLINS knew that documents relating to the Round Trip Loan Transactions, including

documents through which Refco guaranteed to the third parties the performance of BENNETT's company in amounts totaling billions of dollars, were never provided to Thomas H. Lee Partners.

- \* made affirmative misrepresentations and drafted contract terms that misled others into believing that BENNETT's holding company owed Refco no more than approximately \$108 million, which COLLINS knowingly and falsely misrepresented would be repaid by the time the LBO transaction closed. COLLINS knew that BENNETT's holding company actually owed Refco at least \$1 billion and that, even after the LBO, BENNETT's holding company would continue to owe Refco at least \$300 million.
  
- \* agreed with BENNETT to conceal the terms of a 2002 agreement giving the Austrian bank known as BAWAG an approximately 47% economic interest in Refco. COLLINS also agreed to conceal BENNETT's plan to buy out that interest by using more than approximately \$500 million of the proceeds from the LBO. The stated reason for the concealment was that Thomas H. Lee Partners would not pay as much for Refco if it knew the terms of the agreements. The Indictment further alleges that COLLINS directed others not to disclose information relating to BENNETT's buyout of BAWAG's interest, and lied to Thomas H. Lee Partners by representing that all material contracts and related party transactions concerning Refco had been disclosed when COLLINS knew, because he had directed others to conceal the information, that these agreements and arrangements had not been disclosed.
  
- \* created fraudulent corporate documents for Refco that he provided to Thomas H. Lee Partners in order to conceal from Thomas H. Lee Partners BAWAG's true economic interest in Refco.
  
- \* misled Thomas H. Lee Partners and its representatives into believing that Refco possessed approximately \$500 million in excess working capital that had been deposited into a bank account at BAWAG, when COLLINS knew that this account was funded, in part, not by Refco's working capital, but by a \$390 million overdraft loan from BAWAG.
  
- \* assisted in the preparation of a stock registration statement, submitted to the SEC and disseminated to the

public in connection with Refco's IPO, which falsely concealed the existence of certain related party transactions, including the Round Trip Loan Transactions.

The charges in the Superseding Indictment and potential maximum penalties are as follows:

Count	Charge	Penalty
1	Conspiracy To Commit Securities Fraud, Wire Fraud, Bank Fraud, and Money Laundering, and To Make Material Misstatements To Auditors and To Make False Filings With The SEC	5 years in prison, fine of the greater of \$250,000 or twice the gross gain or loss from the offense, 3 years supervised release
2	Securities Fraud	20 years in prison, fine of the greater of \$5 million or twice the gross gain or loss from the offense, 3 years supervised release
3	Securities Fraud	20 years in prison, fine of the greater of \$5 million or twice the gross gain or loss from the offense, 3 years supervised release
4, 5	False Filing with the SEC - Securities Act	5 years in prison, fine of the greater of \$250,000 or twice the gross gain or loss from the offense, 3 years supervised release
6-9	Wire Fraud	20 years in prison, fine of the greater of \$250,000 or twice the gross gain or loss from the offense, 3 years supervised release
10-14	Bank Fraud	30 years in prison, fine of the greater of \$1 million or twice the gross gain or loss from the offense, 3 years supervised release

COLLINS, 58, resides in Winnetka, Illinois.

COLLINS is expected to be arraigned before United States District Judge LEONARD B. SAND on a date to be determined.

To date, several former executives of Refco have been

charged and sentenced for their participation in the \$2.4 billion fraud described above:

On July 3, 2008, BENNETT, 60, of Gladstone, New Jersey, was sentenced to 16 years in prison by United States District Judge NAOMI REICE BUCHWALD. BENNETT pleaded guilty on February 15, 2008, to all twenty charges filed against him.

On August 7, 2008, TONE N. GRANT, 64, of Chicago, Illinois -- one of the former owners of Refco -- was sentenced to 10 years in prison by Judge BUCHWALD. On April 17, 2008, GRANT was convicted after trial in Manhattan federal court on all five counts in the Indictment against him.

On February 20, 2008, ROBERT C. TROSTEN, 39, of Sarasota, Florida -- the former Chief Financial Officer of Refco -- pleaded guilty before Judge Buchwald to five counts charged in the indictment against him. He will be sentenced on a date to be determined.

On December 19, 2007, SANTO C. MAGGIO, 57, of Naples, Florida -- a former Executive Vice President of Refco and the former President and Chief Executive Officer of Refco Securities LLC, a Refco subsidiary -- pleaded guilty before United States Magistrate Judge RONALD L. ELLIS to a four-count Information. He will be sentenced on a date to be determined.

The case was investigated by the Criminal Investigators of the Securities and Commodities Fraud Task Force of the United States Attorney's Office, along with the USPIS. Mr. DASSIN praised the work of those investigators and thanked the Securities and Exchange Commission and the Commodity Futures Trading Commission for their assistance in the case.

The charges contained in the Superseding Indictment are merely accusations, and the defendant is presumed innocent unless and until proven guilty.

Assistant United States Attorneys NEIL M. BAROFSKY, CHRISTOPHER L. GARCIA, NICHOLAS S. GOLDIN, and JEFFREY ALBERTS are in charge of the prosecution.

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