United States Attorney
Southern District of New York

FOR IMMEDIATE RELEASE
MAY 26, 2010

CONTACT: U.S. ATTORNEY'S OFFICE
YUSILL SCRIBNER,
JANICE OH
PUBLIC INFORMATION OFFICE
(212) 637-2600

OVER $135 MILLION IN ADDITIONAL REFCO FRAUD PROCEEDS FORFEITED BY MANHATTAN U.S. ATTORNEY DISTRIBUTED TO VICTIMS

PREET BHARARA, the United States Attorney for the Southern District of New York, announced the distribution of over $135 million plus interest in forfeited property traceable to proceeds of the fraud at the defunct former Manhattan-based financial services company Refco to victims of that fraud. These funds were forfeited in criminal actions, as part of the sentence imposed on individuals convicted of perpetrating the fraud, and pursuant to settlement agreements with former Refco insiders who received proceeds of the fraud.

The distribution was made on the recommendation of PREET BHARARA, the United States Attorney for the Southern District of New York, pursuant to the Attorney General's discretionary authority under 18 U.S.C. § 981(e)(6) to grant petitions for remission. The Attorney General granted petitions for remission submitted on behalf of the victims of the Refco fraud and authorized the transfer of the proceeds of the assets forfeited in this action and related civil actions, plus accrued interest.

As alleged in notices of distribution filed today, previously filed Indictments, and consent orders of forfeiture, and as demonstrated by the proof admitted at various criminal trials:

PHILLIP R. BENNETT, TONE N. GRANT, SANTO C. MAGGIO, ROBERT C. TROSTEN, and others were involved in hiding customer trading losses, concealing the firm's proprietary trading activities, fraudulently shifting expenses off the books of Refco, and artificially padding Refco's revenues in order to achieve, through fraud, the 2004 leveraged buyout ("LBO") of Refco and the 2005 initial public offering ("IPO") of the company's stock.

From as early as the mid-1990s, Refco sustained hundreds of millions of dollars of losses through, among other things, its customers' trading. In order to hide the existence of the losses, BENNETT and others transferred many of the losses to appear as a debt owed to Refco by Refco Group Holdings, Inc. ("RGHI") – the holding company that controlled Refco and was, in turn, controlled by BENNETT, GRANT, and, at certain times, THOMAS DITTMER.

BENNETT and others directed a series of transactions every year from 1999 through 2005 (and quarterly starting in 2004) to hide the RGHI receivable from, among others, Refco's auditors, by temporarily paying down the receivable from RGHI over Refco's fiscal year-end (and, after February 2004, Refco's quarter-ends) and replacing it with a receivable from one or more other entities not related to RGHI. Thus, at every fiscal year-end and, later, at every fiscal quarter-end, BENNETT and others directed transactions that turned the debt owed to Refco from RGHI into a debt owed to Refco by a Refco customer. Shortly after each fiscal year- or quarter-end, these transactions were unwound, returning the debt to RGHI.

In August 2004, Thomas H. Lee Partners, L.P., purchased a majority interest in Refco for approximately $1.9 billion through an LBO. In connection with that transaction, Refco sold approximately $600 million of bonds to the public and borrowed approximately $800 million from a syndicate of banks. A year later, in August 2005, Refco conducted an IPO of its stock, raising approximately $583 million from the public. Refco's stock was then listed on the New York Stock Exchange.

On October 10, 2005, Refco issued a press release announcing, in substance, that it had discovered that it was owed a debt of approximately $430 million by an entity controlled by BENNETT. Following release of this information, the market price of Refco stock plummeted, and Refco's stock was subsequently delisted by the New York Stock Exchange. Refco, Inc., and many of its subsidiaries filed petitions in bankruptcy on October 17, 2005.

Proceeds of Refco's fraudulent LBO were distributed to BENNETT, GRANT, MAGGIO, and TROSTEN, as well as certain other former Refco insiders, including Stephen Grady, Dennis Klejna, Joseph Murphy, Thomas Dittmer, and Frank Mutterer.

On July 3, 2008, BENNETT, 61, of Gladstone, New Jersey, was sentenced to 16 years in prison and ordered to pay a $2.4 billion forfeiture money judgment by United States District Judge

NAOMI REICE BUCHWALD. BENNETT had previously pleaded guilty on February 15, 2008, to all twenty charges filed against him. Approximately $92,748,348.52 plus interest of the funds in this distribution to victims of the Refco fraud were forfeited from BENNETT pursuant to the forfeiture order entered against him as part of his sentence.

On December 19, 2007, MAGGIO, 58, 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 awaits sentencing. Approximately $14,398,788.74 plus interest of the funds in this distribution to victims of the Refco fraud were forfeited from MAGGIO pursuant to the forfeiture orders entered against him.

On February 20, 2008, TROSTEN, 40, 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 awaits sentencing. Approximately $6,160,278.69 plus interest of the funds in this distribution to victims of the Refco fraud were forfeited from TROSTEN pursuant to the forfeiture orders entered against him.

On April 7, 2008, GRANT, 66, of Chicago, Illinois -- one of the former owners of Refco -- was sentenced to 10 years in prison by Judge BUCHWALD after a jury found him guilty on all give counts in the Indictment against him. GRANT was also ordered to pay a $2.4 billion forfeiture money judgment. Approximately $7,863,566.45 plus interest of the funds in this distribution to victims of the Refco fraud were forfeited from GRANT pursuant to the forfeiture order entered against him as part of his sentence.

In addition to money forfeited in criminal actions, this distribution to victims of the Refco fraud includes approximately $13,974,426.07 plus interest of funds forfeited pursuant to consent orders of forfeiture entered into by various former Refco insiders who have not been criminally charged in the Southern District of New York in connection with the Refco fraud. More specifically, under the terms of these consent orders of forfeiture, the Government obtained $1,000,000 from STEPHEN GRADY; $1,250,000 from DENNIS KLENJA; $5,000,000 from JOSEPH MURPHY; approximately $6,541.666.62 from THOMAS DITTMER who has agreed to forfeit a total of $18,000,000; and approximately $182,759.45 from FRANK MUTTERER who has agreed to forfeit a total of $950,000.

This office also forfeited over $437 million from BAWAG P.S.K., formally known as Bank Für Arbeit Und Wirtschaft Und Österreichische Postparkasse Aktiengesellschaft, and the Austrian Trade Unions Association, formally known as Österreichischer Gewerkschaftsbund (ÖGB), which owns BAWAG, as part of an agreement not to prosecute the Bank or the ÖGB for their role in assisting BENNETT in his fraudulent scheme. These forfeited funds were distributed to victims of the Refco fraud in 2006 and 2007.

The Government anticipates forfeiting additional property in this action and making additional distributions of funds to representatives of victims of the Refco fraud

* * *

U.S. Attorney PREET BHARARA stated: "More than just prosecuting criminals who engage in fraud, this Office strives to return as much as possible to their victims. Justice has been rightly served for the victims of the Refco fraud, where over $135 million was distributed and restored, in addition to the $437 million previously distributed. With the hard work of our law enforcement partners and our own Asset Forfeiture Unit, the Southern District of New York will continue to recover as much money as possible on behalf of the victims of crime."

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

These forfeiture actions are being handled by the Asset Forfeiture Unit. Assistant United States Attorneys JEFFREY ALBERTS, RUA KELLY, AMY LESTER, and SHARON COHEN LEVIN are in charge of the cases.

This case was brought in coordination with President BARACK OBAMA's Financial Fraud Enforcement Task Force, on which Mr. BHARARA serves as a Co-Chair of the Securities and Commodities Fraud Working Group. President OBAMA established the interagency Financial Fraud Enforcement Task Force to wage an aggressive, coordinated, and proactive effort to investigate and prosecute financial crimes. The task force includes representatives from a broad range of federal agencies, regulatory authorities, inspectors general, and state and local law enforcement who, working together, bring to bear a powerful array of criminal and civil enforcement resources. The task force is working to improve efforts across the federal executive branch, and with state and local partners, to investigate and prosecute significant financial crimes, ensure just and effective punishment for those who perpetrate financial crimes, combat discrimination in the lending and financial markets, and recover proceeds for victims of financial crimes.

10-169 ###