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UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION

SECURITIES AND EXCHANGE COMMISSION,	§	
Plaintiff,	§	**Civil Action No.: 2:10-cv-01173-DB**
v.	§	**Judge Dee Benson**
CLIFTON K. ORAM, DON C. WINKLER, and WILLIAM R. MICHAEL,	§	
Defendants.	§	

COMPLAINT

The United States Securities and Exchange Commission ("Commission") files this suit against Clifton K. Oram, Don C. Winkler and William R. Michael, Defendants, and would respectfully show the Court as follows:

SUMMARY

1. This is a securities fraud suit involving a foreign currency trading scheme. The Commission seeks to hold Defendants Clifton K. Oram, Don C. Winkler and William R. Michael

responsible for their respective roles in the promotion and sale of a fraudulent, unregistered foreign currency exchange trading ("Forex") program offered by a Mexican entity known as MexGroup (the "MexGroup offering" or the "MBFX offering"). Since late 2005, MexGroup offered investors the opportunity to pool their money and invest in a foreign currency trading program. MexGroup attracted investors by, among other things, touting impressive monthly returns on its website and paying U.S. sales agents to direct investors to that website. MexGroup raised at least $50 million from mostly U.S. investors.

2. In early December 2008, investors learned that their accounts were virtually wiped out in the previous month. MexGroup gave a number of explanations, eventually blaming allegedly illegal conduct by a Swiss Forex trading firm through which it executed trades.

3. Oram, Winkler and Michael offered and sold the MexGroup offering to investors by, among other things, touting the purported returns. Prior to agreeing to solicit investors on MexGroup's behalf, none of the Defendants took any significant step to investigate MexGroup, its principals, or the viability of the investment. Instead, they blindly accepted MexGroup's representations about its background, veracity, and track record. Egregiously, Oram and Winkler continued to offer and sell the MBFX offering even after the November 2008 collapse.

4. The Commission, in the interest of protecting the public from any further fraudulent activity, brings this action seeking permanent injunctive relief to prohibit the Defendants from future violations of the antifraud and registration provisions of the federal securities acts, and orders of the Court requiring the Defendants to disgorge the monies and benefits each realized as a result of the conduct alleged in the Complaint and directing the Defendants to pay appropriate civil monetary penalties.

JURISDICTION

5. This Court has jurisdiction over this action pursuant to Section 22(a) of the Securities Act [15 U.S.C. § 77v(a)] and Section 27 of the Exchange Act [15 U.S.C. § 78aa]. Defendants, directly and indirectly, made use of the mails and of the means and instrumentalities of interstate commerce in connection with the acts, practices and courses of business described in this Complaint.

DEFENDANTS

6. **Clifton K. Oram**, 44, of St. George, Utah, was formerly a licensed insurance agent. During the relevant time period, Oram offered and sold the MBFX offering through two entities, KCM Marketing and Adelaide Partners, LLC, which he and two partners controlled. From 1999 through 2003, Oram was associated with four brokerage firms, holding Series 6, 26, and 63 licenses. In July 2009, the Utah Division of Securities ordered Oram to desist and refrain from acting as an unregistered broker selling unregistered securities in Utah.

7. **Don C. Winkler**, 77, was formerly a resident of Tucson, Arizona and is currently believed to be residing in Panama. Winkler held a Series 1 license in the 1970s, but has not been associated with a registered broker-dealer since that time.

8. **William R. Michael**, 51, of San Jose, California, has held a Series 65 license and currently is an owner and managing director of Michael, Musgrave & Jackson, LLC, an investment adviser registered with the state of California. He was the managing member of LCM Gold, LLC, a Nevada limited liability company, through which he and three others sold the MBFX offering.

BACKGROUND FACTS

9. MexGroup, also known as MexBank, purports to be an entity organized under Mexican corporate law. In its Forex trading program, MexGroup targeted returns of almost 1%

per week in most investor accounts and retained all profits above the targeted amounts. On its website, MexGroup posted a positive monthly track record, which was a key feature for many investors. Based on these posted results, MexGroup and its investors purportedly enjoyed healthy returns almost every month from 2006 through October of 2008. MexGroup also touted its "risk stop loss of 20%," which purportedly limited the risk to investors' principal.

10. MexGroup primarily used sales agents to market the investment, but it required investors to make their investments through its website. Investors sent their money to a MexGroup account in Mexico, often via a New York correspondent bank. According to MexGroup's website, its written materials and the sales agents, MexGroup then pooled the investor funds and invested them in trading programs through Value Asset Management ("VAM"), a Swiss Forex trading firm. The Defendants touted the MexGroup investment as an opportunity for individual investors to access VAM's trading platform or program, which was purportedly available only to institutional investors. The firm allowed investors online access to their monthly account statements. Investors relied solely on MexGroup, and its agents, to earn returns on their invested funds.

11. Although MexGroup referred to the investor accounts as "managed accounts," the statements they provided were similar to traditional monthly bank account statements. The MexGroup statements reflected opening balances, any deposits or withdrawals made during the month, monthly gains/losses, and the overall ending account balance. The accounts, however, were not managed separately and the MexGroup investor account statements did not reflect individual Forex transactions—instead, investors received their share of the monthly profits or losses that MexGroup achieved from trading the pooled funds.

12. In early December 2008, MexGroup posted investor account statements for November 2008 that almost universally reflected losses of over 90%. MexGroup gave a series of changing explanations for this debacle, but by April 2009 it had settled on the story that Advanced Currency Markets ("ACM"), one of the Swiss Forex firms through which it actually traded, caused investors' losses through "criminal conduct." Thereafter, MexGroup lulled investors with stories of its planned lawsuit against ACM and its efforts to have criminal charges filed against the firm. MexGroup continues to claim that ACM caused the investors' losses.

13. MexGroup made material misrepresentations and omissions concerning its Forex investment program. In particular, MexGroup claimed on its website and in various documents that VAM managed its trading accounts. VAM, however, had no business relationship with MexGroup. MexGroup at other times claimed that ACM caused its investors' losses. ACM trading records, however, show that MexGroup last traded at ACM in February 2008, and it withdrew all of its funds from ACM well before the alleged November 2008 losses.

14. Further, MexGroup grossly misrepresented its purported monthly returns. On its website, MexGroup claimed average weekly growth rates of .8552% and .6075% for 2006 and 2007, respectively. Thus, MexGroup claimed annual returns of over 44% in 2006 and over 31% in 2007. An analysis of its trading records, however, shows that the firm actually had net trading *losses* of over $1.6 million in 2006 and over $4.5 million in 2007. In 2008, MexGroup's lies multiplied, along with its trading losses. On its website, the firm claimed monthly profits for virtually every month except November 2008. In reality, however, the firm suffered catastrophic net trading losses during several months, including over $3.3 million in February, $11.3 million in August, $1.8 million in September and $4.1 million in October. Significantly, MexGroup's disastrous losses in May through October 2008 did not occur at ACM, since MexGroup did not

trade through ACM after February 2008. Thus, MexGroup's tale that ACM's "criminal conduct" caused investors to lose virtually all of their money was a fiction concocted to hide the firm's lies and massive trading losses.

15. The moving force behind MexGroup is Gary L. McDuff, a/k/a Gary Inman ("McDuff"). In 1994, McDuff, a U.S. citizen residing in Mexico, was convicted on two counts of money laundering in *U.S. v. Gary L. McDuff*, 4:93CR00161-001 (S.D. Tex.) Currently, he is a defendant in a pending Commission action involving an earlier "high yield" investment scheme. *See SEC v. Gary L. McDuff*, *et al*., Lit. Rel. No. 20512 (March 27, 2008). In response to a subpoena enforcement action against McDuff in connection with the case, McDuff fled to Mexico, where he continues to reside. In June 2009, McDuff was indicted on criminal charges stemming from a U.S. based ponzi scheme in *U.S. v. Gary Lynn McDuff et al.*, No. 4:09-CR-00090 (E.D. Tex., June 11, 2009), and he remains a fugitive.

16. Winkler, a long-time McDuff associate, was one of the most prolific sales agents of the MexGroup Forex program. Winkler first met McDuff in 1999 or 2000. In approximately November 2005, Winker invested in the MexGroup offering and began promoting it to investors. Winkler eventually sold the MBFX offering through Winkler International, LLC ("Winkler International"). Under MexGroup's written agreement with Winkler, the firm paid him compensation for his sales. By late 2006, Winkler developed a nationwide network of sales agents who marketed the MBFX offering. Winkler and his sales agent network raised over $20 million from investors, based on which Winkler personally earned approximately $200,000.

17. Despite his knowledge of McDuff's fraud conviction and involvement with prior fraudulent schemes, Winkler performed no meaningful due diligence on MexGroup or its Forex investment program. Instead, he relied on McDuff and failed to disclose McDuff's background

to sales agents and investors. Indeed, in late 2008 or early 2009, when a sales agent/investor asked Winker about McDuff, Winkler denied that McDuff was involved with MexGroup. Winkler's purported effort at conducting due diligence consisted primarily of a trip to Mexico with investors well after he began selling the MexGroup investment. McDuff hosted the group at his home in Cuernavaca, Mexico, telling investors that VAM and MexGroup had formed a partnership and that MexGroup's Forex trading only had a "20 percent risk factor." Beyond that, Winkler knew little about the investment—he did not understand the mechanics of Forex trading, how the MBFX offering could yield the promised trading profits to investors, or even how commissions were generated or calculated for the sales agents. Nevertheless, Winkler extolled the purported virtues of the MexGroup Forex investment to investors and sales agents, touting the genius behind MexGroup's trading strategy and the great success the firm had achieved.

18. In November 2008, McDuff informed Winkler of the "disaster" that purportedly caused investors to lose almost all their money. In late 2008 or early 2009, Winkler turned over daily operation of the business to his stepson and his stepson's wife. At Winkler's direction, they performed the administrative duties needed to continue the MBFX offerings by Winkler's sales agents, in spite of the near total losses suffered in late 2008. As a result, Winkler International brought in an additional $2 to $3 million for the MBFX offering between the late 2008 "disaster" and June 2009.

19. In the late summer of 2007, Michael and his partners discovered MexGroup after $8 million of their clients' assets were frozen in a Forex case brought by the CFTC. *See CFTC v. Nations Investments, LLC,* CFTC Rel. No. 5380-07 (Sept. 5, 2007). Michael and his partners formed LCM to offer and sell the MexGroup investment opportunity. Before LCM began offering the MexGroup investment, Michael reviewed the MexGroup website, examined

accounts statements of two MBFX investors, spoke with a MexGroup trader, and spoke with McDuff, who he knew as "Gary Inman." Even though his partners wanted to meet with MexGroup's principals and inspect the business in Mexico first, Michael insisted on going forward with offering the investment program**.** Ultimately, one of the partners made superficial due diligence visits to VAM and MexGroup. On a trip to Europe, the partner made a side trip to Switzerland to meet with VAM. The purported VAM principals showed the partner their small offices and trading room and told him that they had administrative offices in London and other traders in Europe and the Ukraine. However, VAM's website does not mention a London office, and lists an address different from the one the partner visited. Months later, this same partner visited MexGroup's offices in Mexico. McDuff briefly showed the partner the company's small offices, and he met its principals at a restaurant. Nonetheless, LCM, Michael, and his partners did not question why a supposedly multi-billion dollar financial firm had corporate offices little larger than their own four-person firm. Ultimately, Michael and his partners failed to conduct any meaningful due diligence. For example, Michael and his partners did nothing to verify McDuff's claim to be an attorney licensed in the U.S., even though he represented that he was MexGroup's legal and compliance officer.

20. Michael and LCM attracted investors through newspaper and radio ads, a website and an informational brochure. The website and brochure both indicated that LCM had a positive track record and that they prudently managed and limited the risks of Forex trading. Both, however, completely failed to disclose that LCM's principals previously recommended Forex investments through an entity whose assets were frozen in a CFTC enforcement action. Further, on its website, LCM's principals essentially claimed MexGroup's purported track record as their own. However, the website downplayed MexGroup's role, characterizing MBFX as a

"third party fiduciary bank group" overseeing LCM's trading policies. The website also misrepresented the flow of investor funds by stating that investor funds went to HSBC in New York without disclosing that the funds were merely routed through New York to Mexico. Finally, the brochure stated that LCM "does not charge any fees or collect any profits until the client has been paid." In truth, MexGroup paid LCM based on trade volume, so that LCM profited even if its clients did not.

21. Michael and his partners were not satisfied with the compensation income MexGroup offered its sales agents. Instead, LCM required each investor to execute a "profit participation agreement" under which LCM also received all monthly profits above the first 1% to 1.5% up to 4% profit generated in the investor's MexGroup account, depending on the amount invested. Thus, LCM capped its investors' profits from the MexGroup offerings at 12% to 18%; the investors ran all of the risk, but stood to gain less than half of the potential rewards. From August 2007 through early December 2008, LCM raised between $7.5 and 8 million for the MexGroup offering. MexGroup paid LCM $467,150 in compensation for selling the investments. Michael personally received approximately $75,000.

22. In early 2007, after Winkler introduced Oram to MexGroup, Oram offered and sold the MexGroup offering through KCM Partners, LLC, and later Adelaide Partners, LLC (collectively, "KCM"). Winkler paid KCM transaction based compensation for its sales. KCM, in turn, paid approximately 15 sales agents across the country to sell the MXBX offering to investors.

23. Oram's only due diligence was to ask Winkler whether the track record on the MexGroup website was accurate. Without any knowledge or effort to learn of Winkler's background or his knowledge or experience in Forex trading, Oram blindly accepted Winkler's

positive response. In addition, in December 2007, Oram accompanied several potential investors to meet with MexGroup in Mexico. But instead of attempting to perform any due diligence concerning MexGroup or its claims of phenomenal returns, Oram spent most of the trip sight-seeing and relaxing. He met MexGroup principals other than McDuff only briefly, and did not even visit the MexGroup offices.

24. Oram represented to investors that the returns on the MexGroup offering "looked very impressive" and that he "liked their track record" and "liked what [he] saw." Oram also promoted the returns listed on MexGroup's website and emphasized the 20% stop loss MexGroup allegedly used to protect investors' principal. KCM distributed written material to potential investors comprised of a short explanation of foreign exchange trading and MexGroup's previous trading record, as reflected on the website. The written material also emphasized the unique advantages of the MBFX offering including MexGroup's "established treasury account relationships with major international banks" which would "expedite the placement of [investor] funds into the currency exchange market." Finally Oram, when confronted by some of his investors concerned about sending their money to Mexico, misrepresented to the investors their money was "going to Switzerland to be traded" by VAM.

25. Oram, KCM and its sales agent network raised approximately $20 to $25 million from investors for the MBFX offering through November 2008. In November 2008, MexGroup notified its customers that virtually all of their money was lost, and over the next several months it gave customers changing and sometimes inconsistent explanations of why their money was lost, who was involved, and what MexGroup was doing to recover their money. These facts should have alerted Oram to potential fraud by MexGroup. Nevertheless, he made no attempt to verify any of the information contained in the litigation updates MexGroup sent to its investors.

And, despite the staggering losses MexGroup was reporting to investors, Oram and KCM sales agents continued raising money for the MBFX offering.

CLAIMS FOR RELIEF

FIRST CLAIM
(Violations of Section 10(b) of the Exchange Act and Rule 10b-5 thereunder)

26. Plaintiff Commission repeats and incorporates paragraphs 1 through 25 of this Complaint by reference as if set forth *verbatim*.

27. Defendants directly or indirectly, singly or in concert with others, in connection with the purchase and sale of securities, by use of the means and instrumentalities of interstate commerce and by use of the mails: (a) have employed devices, schemes and artifices to defraud; (b) have made untrue statements of material facts and have omitted to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; and (c) have engaged in acts, practices and courses of business which operate as a fraud and deceit upon purchasers, prospective purchasers and other persons.

28. As a part of and in furtherance of their scheme, Defendants directly and indirectly, prepared, disseminated or used contracts, written offering documents, promotional materials, investor and other correspondence, and oral presentations, which contained untrue statements of material facts and misrepresentations of material facts, and which omitted to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading, including, but not limited to, those set forth above.

29. Defendants made these misrepresentations and omissions knowingly or with severe recklessness.

30. By reason of the foregoing, Defendants have violated and, unless enjoined, will continue to violate, Section 10(b) of the Exchange Act [15 U.S.C. § 78j(b)] and Rule 10b-5 thereunder [17 C.F.R. § 240.10b-5].

SECOND CLAIM
(Violations of Sections 5(a) and 5(c) of the Securities Act)

31. Plaintiff Commission repeats and incorporates paragraphs 1 through 25 of this Complaint by reference as if set forth *verbatim*.

32. Defendants, directly or indirectly, singly and in concert with others, have been offering to sell, selling and delivering after sale, certain securities, and have been, directly and indirectly: (a) making use of the means and instruments of transportation and communication in interstate commerce and of the mails to sell securities, through the use of written contracts, offering documents and otherwise; (b) carrying and causing to be carried through the mails and in interstate commerce by the means and instruments of transportation, such securities for the purpose of sale and for delivery after sale; and (c) making use of the means or instruments of transportation and communication in interstate commerce and of the mails to offer to sell such securities.

33. As described in this Complaint, Defendants offered and sold the securities to the public through a general solicitation of investors. No registration statement has been filed with the Commission or is otherwise in effect with respect to these securities.

34. By reason of the foregoing, Defendants violated and, unless enjoined, will continue to violate Sections 5(a) and 5(c) of the Securities Act [15 U.S.C. §§77e(a) and 77e(c)].

THIRD CLAIM
(Violation of Section 17(a) of the Securities Act)

35. Plaintiff Commission repeats and incorporates paragraphs 1 through 25 of this Complaint by reference as if set forth *verbatim*.

36. Defendants, directly or indirectly, singly and in concert with others, in the offer and sale of securities, by use of the means and instruments of transportation and communication in interstate commerce and by use of the mails, have: (a) employed devices, schemes or artifices to defraud; (b) obtained money or property by means of untrue statements of material fact or omissions to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; and (c) engaged in transactions, practices or courses of business which operate or would operate as a fraud or deceit.

37. As part of and in furtherance of this scheme, Defendants, directly and indirectly, prepared, disseminated or used contracts, written offering documents, promotional materials, investor and other correspondence, and oral presentations, which contained untrue statements of material fact and which omitted to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading, including, but not limited to, those statements and omissions set forth above.

38. Defendants made these misrepresentations and omissions knowingly or with severe recklessness. Defendants were also negligent with respect to their representations and omissions.

39. By reason of the foregoing, Defendants have violated, and unless enjoined, will continue to violate Section 17(a) of the Securities Act [15 U.S.C. § 77q(a)].

FOURTH CLAIM
(Violation of Section 15(a) of the Exchange Act)

40. Plaintiff Commission repeats and incorporates paragraphs 1 through 25 of this Complaint by reference as if set forth *verbatim*.

41. By reason of the foregoing, Defendants, directly or indirectly, singly and in concert with others, made use of the mails or means or instrumentalities of interstate commerce to effect transactions in, or to induce or attempt to induce, the purchase or sale of securities, without being registered as a broker or dealer, or being associated with a registered broker or dealer.

42. By reason of the foregoing, Defendants have violated and, unless enjoined, will continue to violate Section 15(a) of the Exchange Act [15 U.S.C. § 78o-5].

PRAYER FOR RELIEF

WHEREFORE, the Commission respectfully requests that this Court issue a Final Judgment:

(a) Permanently enjoining Defendants from violating, directly or indirectly, Sections 5(a), 5(c) and 17(a) of the Securities Act [15 U.S.C. §§77e(a), 77e(c) and 77q(a)] and Sections 10(b) and 15(a) of the Exchange Act [15 U.S.C. §§78j(b), 78o(a)] and Rule 10b-5 thereunder [17 C.F.R. §240.10b-5];

(b) Ordering Defendants to disgorge an amount equal to the funds and benefits they obtained illegally, or to which they are otherwise not entitled, as a result of the violations alleged, plus prejudgment interest on that amount;

(c) Ordering Defendants to pay monetary penalties under Section 20(d) of the Securities Act [15 U.S.C. §77t(d)] and Section 21(d)(3) of the Exchange Act [15 U.S.C. § 78u(d)(3)]; and

(d) Granting such other and further relief as the Court deems just and proper.

Dated: November 30, 2010

Respectfully submitted,

/s/ Daniel J. Wadley

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