UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA

UNITED STATES SECURITIES AND EXCHANGE COMMISSION,	
Plaintiff,	
v.	CIVIL ACTION FILE NO.
JAMES R. HARROLD, FRANKLIN MANAGEMENT AND CONSULTING, LLC ACCIPTER, LLC, FRANKLIN ASSET MANAGEMENT AND CONSULTING, LLC FRANKLIN MANAGEMENT AND CONSULTING, INC. and CONCORD DEVELOPMENT GROUP, LLC,	IP01-1318 C H/G
Defendants.	

COMPLAINT

Plaintiff United State Securities and Exchange Commission ("Commission") alleges as follows:

NATURE OF THE COMPLAINT

1. Defendant James R. Harrold ("Harrold"), from on or about October 1999 until at least February 2001, engaged in the fraudulent offering and selling of fictitious "prime bank" securities. These so-called prime bank securities do not exist. In fact, prime bank schemes have been commonly used to defraud the investing public. Originally Defendant Harrold was a low-tier seller in another prime bank scheme. After the primary perpetrators were indicted and arrested in that scheme, the Federal Bureau of Investigation ("FBI") specifically warned Defendant Harrold in October1999 about the fraudulent nature of prime bank schemes. Instead

of heeding that warning, Defendant Harrold repackaged the prior prime bank program and began his own prime bank scheme, the Rubix Program. As the primary seller, Harrold began offering the Rubix Program to investors through his companies, Franklin Management and Consulting, LLC, Accipter, LLC, Franklin Asset Management and Consulting, LLC, Franklin Management and Consulting, Inc. and Concord Development Group, LLC (collectively the "Entity Defendants"). Defendant Harrold and the Entity Defendants offered and sold investments in this fraudulent prime bank scheme in violation of the antifraud and registration provisions of the federal securities laws. Defendant Harrold and the Entity Defendants lured investors nationwide with false guarantees of outlandish profits in the purported "prime bank trading program" that uses pooled investor funds to purchase prime bank debenture instruments issued by "top world banks." At least 405 investors nationwide invested at least $2 million. As stated above, these securities never existed. Contrary to their representations to the public, Defendant Harrold and the Entity Defendants misappropriated most of the investor funds for personal expenses. They also used the investor funds to make interest and principal payments to previous investors, effectively operating a Ponzi scheme. Defendant Harrold and the Entity Defendants also used the investor funds to pay commissions to secondary sellers and transferred monies amongst themselves and to some of Defendant Harrold's other companies.

2. Defendant Harrold is also currently engaging in two other similarly fraudulent offering schemes.

3. In connection with the offer and sale of these fictitious securities, Defendant Harrold and the Entity Defendants made several misrepresentations and omitted to state material facts to investors in relation to, among other things: (a) the existence of prime bank securities; (b) the rate of return on the Rubix Program; (c) the risks of the Rubix Program; and (d) the use of

the proceeds. Although variations exist regarding what investors were told, the essence of the promises made to investors was the same: all were promised that their money was being invested in a guaranteed, risk-free, high yield prime bank debenture trading program.

4. Defendant Harrold and the Entity Defendants, directly and indirectly, engaged and, unless enjoined, will continue to engage in transactions, acts, practices and courses of business which constitute violations of Sections 5(a), 5(c) and 17(a) of the Securities Act of 1933 ("Securities Act") [15 U.S.C. §§ 77e(a), 77e(c) and 77q(a) and Section 10(b) [15 U.S.C. § 78j(b)] of the Securities Exchange Act of 1934 ("Exchange Act") and Rule 10b-5 [17 C.F.R. § 240.10b-5] thereunder.

5. The Commission brings this action to enjoin such transactions, acts, practices and courses of business pursuant to Section 20(b) of the Securities Act [15 U.S.C. § 77t(b)] and Sections 21(d) and 21(e) of the Exchange Act [15 U.S.C. §§ 78u(d) and 78u(e)].

JURISDICTION AND VENUE

6. 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] and 28 U.S.C § 1331.

7. Venue is proper in this Court 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].

8. The transactions, acts, practices and courses of business alleged herein occurred within the jurisdiction of the United States District Court for the Southern District of Indiana and elsewhere.

9. Defendant Harrold and the Entity Defendants, directly and indirectly, have made and are making use of the means and instrumentalities of interstate commerce and of the mails in

connection with the transactions, acts, practices and courses of business alleged herein in the Southern District of Indiana and elsewhere.

DEFENDANTS

10. Defendant Harrold is 58 years old and resides in Indianapolis, Indiana. Defendant Harrold is retired and worked for approximately 24 years at the American Family Life Assurance Company of Columbus ("AFLAC") selling supplementary insurance. From 1990 through November 1998, Defendant Harrold was a resident agent licensed to sell insurance in Indiana. Defendant Harrold used his professional and client contacts at AFLAC to market and solicit the Rubix Program. Defendant Harrold owns and operates at least fifteen corporate entities, several of which purport to purchase and develop golf courses. On February 23, 2001, the Indiana Division of Securities issued a Cease and Desist Order against Defendant Harrold for the sale of unregistered securities. On July 5, 2001, Defendant Harrold entered into a Consent Agreement with the Indiana Division of Securities that required a rescission offer to all Indiana investors, which closed on August 28, 2001 ("Indiana Rescission Offer").

11. Defendant Franklin Management and Consulting, LLC ("Franklin Management, LLC") is an Indiana limited liability company wholly owned by Defendant Harrold and is located in Indianapolis, Indiana. Franklin Management, LLC purportedly manages and consults for Defendant Harrold's other companies and makes deposits and disbursements for a fee.

12. Defendant Accipter, LLC ("Accipter") is an entity of unknown business organization and its last known address is in Denver, Colorado. Defendant Harrold is a director.

13. Defendant Franklin Asset Management and Consulting, LLC ("Franklin Asset") is an Indiana limited liability company and Harrold is the registered agent.

14. Defendant Franklin Management and Consulting, Inc. ("Franklin Management, Inc.") is an entity of unknown business organization and its last known address is Harrold's residential address.

15. Defendant Concord Development Group, LLC ("Concord") is an entity registered in Indiana solely owned by Defendant Harrold. Defendant Harrold has set up a number of bank accounts using this entity's name to perpetrate his schemes and to funnel investor funds.

THE FRAUDULENT SCHEME

16. Beginning around October 1999 and through at least February 2001, Defendant Harrold and the Entity Defendants solicited investors by claiming that investor funds would be invested in a "prime bank trading program" involving bank debentures.

17. Originally Defendant Harrold and the Entity Defendants solicited investors for another prime bank scheme, the International Financial Resources Trust ("IFR Program"), and received fees in connection with their involvement with the IFR Program.

18. On August 26, 1999, some of the principals who operated the IFR Program were indicted and eventually pled guilty to, among other things, conspiracy to commit securities fraud. US v. Larry Wilcoxson, et. al, (CR. S-99-359 DFL) (E.D. Ca. 1999).

19. On or about October 13, 1999, the FBI sent Defendant Harrold a warning letter and information sheet that described the fraudulent nature of the IFR Program and stated that such trading programs do not exist. The initial complaint and original indictment filed in the IFR Program criminal investigation were also enclosed.

20. Following the FBI's warning, on or about October 1999, Defendant Harrold and the Entity Defendants began offering the Rubix Program to prospective investors.

21. Defendant Harrold and the Entity Defendants represented to investors, among

other things, that their funds would be sent to Rubix Services, Ltd ("Rubix Services"), a private, British company. Rubix Services was controlled by one of the defendants indicted in the IFR Program criminal investigation.

22. At the same time, Defendant Harrold told investors in the IFR Program that their accounts were being transferred to Rubix Services.

23. Defendant Harrold and the Entity Defendants made material misrepresentations and omitted to state material facts in the offer and sale of the Rubix Program. These included, among other things: (a) the existence of prime bank securities; (b) the rate of return on the Rubix Program; (c) the risks of the Rubix Program; and (d) the use of the proceeds.

24. Defendant Harrold and the Entity Defendants told investors that their investments in the Rubix Program would earn monthly profits of 20% on a minimum investment of $5,000 and that their principal investment had to remain in the Rubix Program for at least one year.

25. Defendant Harrold and the Entity Defendants provided investors with several different promotional brochures that describe the existence and safety of "prime bank trading programs." The representations contained in these promotional brochures, include, but are not limited to, the following statements:

a. Prime bank programs are confidential and complex trading programs dating back to the rebuilding and stabilization of the world's banks after World War II.

b. International prime banks issue debentures at a percentage of their face value that are resold at escalating prices. Each subsequent transaction generates profits.

c. Investor funds are secured by bank guarantees issued by top money center

banks.

d. This is a multi-trillion dollar market that is tightly monitored by central banking authorities and coordinated by the U.S. Federal Reserve Board.

e. Prime bank trading programs are conducted under specific guidelines set up by the International Chamber of Commerce.

26. In at least two seminar presentations, over the telephone, in electronic mail communications, in person and in investor contracts, Defendant Harrold and the Entity Defendants represented that investor funds would be deposited into a trust account and pooled with other investor funds. According to Defendant Harrold and the Entity Defendants, once the trust account balance reached $1 million, Midland Bank, PFC ("Midland") in Britain, through its subsidiary Rubix Services would withdraw funds monthly from the trust account to invest in prime bank debenture instruments that generated the promised 20% monthly profits. They also told investors that the withdrawn funds and 20% return would then be deposited back into the trust account monthly.

27. Defendant Harrold and the Entity Defendants told investors that there was no risk to investors' principal in the Rubix Program because Midland secured an exit buyer before any funds were withdrawn for the purchase of prime bank debenture instruments.

28. In fact, in order to induce investors to enter the Rubix Program Defendant Harrold and the Entity Defendants showed investors Defendant Harrold's account statements showing substantial profits from his alleged investment with the fraudulent IFR Program.

29. Investors received no financial or non-financial information about the Rubix Program or any other entity; no audited financial statements, private placement memorandum or other offering circulars were made available.

30. Defendant Harrold and the Entity Defendants mailed, faxed and personally provided investors with monthly statements on Rubix Services letterhead, which showed that investors were earning monthly profits of 20%.

31. In reality, the Rubix Program and other similar investments do not exist and investor funds could not be used to purchase them.

32. The Rubix Program was connected to and was the continuation of a prior fraudulent prime bank scheme, the IFR Program.

33. There was no reasonable basis for the expectation of profit and certainly not for any guarantee on the safety of investors' principal investment because these prime bank debenture instruments do not exist and are inherently fraudulent.

34. In fact, Defendant Harrold and the Entity Defendants deposited investor funds into various corporate accounts, including an offshore bank account, that they controlled instead of depositing investor funds into a trust account for a prime bank investment.

35. Defendant Harrold and the Entity Defendants used the investor funds raised in the Rubix Program, to, among other things, pay personal expenses, including a $5,600 monthly mortgage on one of Defendant Harrold's residences, repay previous investors, pay commissions to secondary sellers, and transfer funds to various other companies.

36. Defendant Harrold and the Entity Defendants used and caused the use of the United States mail and interstate telephone calls, facsimiles and travel in furtherance of this fraudulent scheme.

37. As a result of Defendant Harrold's fraudulent scheme, at least $2 million was misappropriated from at least 405 investors in the Rubix Program.

38. On or around February 8, 2001, Defendant Harrold and the Entity Defendants

distributed a flier telling investors that the Rubix Program withdrawal checks were being issued through some of Defendant Harrold's other companies. The flier instructed investors that they should tell anyone asking about this that the withdrawal checks resulted from a "Golf/Subdivision Marketing Investment, " and them refer them to Defendant Harrold.

39. On February 23, 2001, the Indiana Division of Securities issued a Cease and Desist Order against Defendant Harrold for the sale of unregistered securities.

40. Yet, as late as March 2001, Defendant Harrold told approximately 20 to 25 investors in the Rubix Program that the Rubix Program was legitimate during a seminar held in Frontenac, Missouri.

41. On June 29, 2001, the Indiana rescission offer was sent to investors.

42. Nonetheless, after June 29, 2001, and continuing to the present, Defendant Harrold is representing to investors that the Rubix Program is legitimate.

43. Currently, Defendant Harrold and the Entity Defendants are soliciting investors to invest in at least two other fraudulent investment programs.

a. The first offering benefits Defendant Harrold's and Defendant Franklin Asset. Investors will allegedly earn 12% annual interest and a 10% contingent bonus on a minimum investment of $5,000 over a term of five years. The proceeds of this offering purportedly will be used to fund residential golf communities.

b. The second offering benefits Defendant Harrold and Defendant Franklin Management, Inc. Investors will allegedly earn 10% monthly interest in a "90-day blocked funds program" on a minimum investment of $100,000. The proceeds will purportedly be placed with a fund manager "at a top

ranking West European Bank or Securities House."

44. In the last month, sixteen individuals have deposited $204,000 into accounts controlled by Defendant Harrold and the Entity Defendants in St. Louis, Missouri. Some of these individuals are investors in the Rubix Program.

45. On September 5th 2001, Defendant Harrold traveled to St. Louis, Missouri and withdrew investor funds from various bank accounts in the form of $105,000.

COUNT I

Violations of Section 5(a) and 5(c) of the Securities Act [15 U.S.C. §§ 77e(a) and 77e(c)]

46. Paragraphs 1 through 45 are realleged and incorporated by reference.

47. The investments described herein constitute "securities" within the meaning of Section 2(1) of the Securities Act [15 U.S.C. § 77b(1)] and Section 3(a)(10)of the Exchange Act [15 U.S.C. § 78c(a)(10)].

48. The securities offered and sold by defendants were not registered in accordance with the provisions of the Securities Act.

49. At all times alleged in this Complaint, Defendants Harrold, Franklin Management, LLC, Accipter, Franklin Asset, Franklin Management, Inc. and Concord, directly and indirectly, made and are making use of the means and instruments of transportation and communication in interstate commerce and of the mails, to sell and offer to sell securities in the form of investment contracts through the use and medium of a prospectus or otherwise, and carried and are carrying such securities and caused and are causing them to be carried through the mails and in interstate commerce by the means and instruments of transportation for the purpose of sale and delivery after the sale.

50. No registration statement has been filed or is in effect with the Commission and no exemption from registration is available, as to the securities more fully described in Paragraphs 1 through 45.

51. By reason of the activities described in Paragraphs 46 through 50, Defendants Harrold, Franklin Management, LLC, Accipter, Franklin Asset, Franklin Management, Inc. and Concord have violated and are violating Sections 5(a) and 5(c) of the Securities Act [15 U.S.C. §§ 77e(a) and 77e(c)].

COUNT II

Violations of Section 17(a)(1) of the Securities Act [15 U.S.C. § 77q(a)(1)]

52. Paragraphs 1 through 45 are realleged and incorporated by reference.

53. At all times alleged in this Complaint, Defendants Harrold, Franklin Management, LLC, Accipter, Franklin Asset, Franklin Management, Inc. and Concord, in the offer and sale of securities in the form of investment contracts, by the use of the means and instruments of transportation and communication in interstate commerce and by the use of the mails, directly and indirectly, have and are employing devices, schemes and artifices to defraud.

54. Defendants Harrold, Franklin Management, LLC, Accipter, Franklin Asset, Franklin Management, Inc. and Concord knew and know or were and are reckless in not knowing the activities described in Paragraphs 52 and 53 above.

55. By reasons of the activities described in Paragraphs 53 and 54 above, Defendants Harrold, Franklin Management, LLC, Accipter, Franklin Asset, Franklin Management, Inc. and Concord have violated and are violating Section 17(a)(1) of the Securities Act [15 U.S.C. § 77q(a)(1)].

COUNT III

Violations of Sections 17(a)(2) and 17(a)(3) of the Securities Act [15 U.S.C. §§ 77q(a)(2) and 77q(a)(3)]\

56. Paragraphs 1 through 45 are realleged and incorporated by reference.

57. At all time alleged in this Complaint, Defendants Harrold, Franklin Management, LLC, Accipter, Franklin Asset, Franklin Management, Inc. and Concord, in the offer and sale of securities in the form of investment contracts, by the use of the means and instruments of transportation and communication in interstate commerce and by the use of the mails, directly and indirectly, have obtained and are obtaining 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 have engaged and are engaging in transactions, practices or courses of business which have operated and are operating as a fraud and deceit upon purchasers of securities.

58. By reason of the activities described in Paragraphs 56 and 57, Defendants Harrold, Franklin Management, LLC, Accipter, Franklin Asset, Franklin Management, Inc. and Concord have violated and are violating Sections 17(a)(2) and 17(a)(3) of the Securities Act [15 U.S.C. §§ 77q(a)(2) and 77q(a)(3)].

COUNT IV

Violations of Section 10(b) of the Exchange Act and Rule 10b-5 Thereunder [15 U.S.C. §78j(b) and 17 C.F.R. §240.10b-5]

59. Paragraphs 1 through 45 are realleged and incorporated by reference.

60. At all relevant times alleged in this Complaint, Defendants Harrold, Franklin Management, LLC, Accipter, Franklin Asset, Franklin Management, Inc. and Concord, in connection with the purchase and sale of securities in the form of investment contracts, directly

and indirectly, by the use of the means and instrumentalities of interstate commerce or of the mails, has employed and are employing devices, schemes and artifices to defraud; have made and are making untrue statements of material fact and have omitted and are omitting to state material facts necessary in order to make the statements mad, in the light of the circumstances under which they were made, not misleading; and have engaged and are engaging in acts, practices and courses of business which operated and are operating as a fraud and deceit upon the investors as discussed in Paragraphs 1 through 45 above.

61. Defendants Harrold, Franklin Management, LLC, Accipter, Franklin Asset, Franklin Management, Inc. and Concord knew and know or were and are reckless in not knowing the activities described in Paragraphs 59 and 60 above.

62. By reason of the activities described in Paragraphs 60 and 61 above, Defendants Harrold, Franklin Management, LLC, Accipter, Franklin Asset, Franklin Management, Inc. and Concord have violated and are violating Section 10(b) of the Exchange Act [15 U.S.C. §78j(b)] and Rule 10b-5 [17 C.F.R. §240.10b-5] thereunder.

RELIEF REQUESTED

WHEREFORE, the Commission requests that the Court:

I.

Find that Defendants Harrold, Franklin Management, LLC, Accipter, Franklin Asset, Franklin Management, Inc. and Concord committed the violations alleged above.

II.

Grant an Order of Permanent Injunction, in form consistent with Rule 65(d) of the Federal Rules of Civil Procedures, restraining and enjoining Defendant Harrold, his officers, agents, servants, employees, attorneys and those persons in active concert or participation with

him who receive actual notice of the Order of Permanent Injunction, by personal service or otherwise, and each of them from, directly or indirectly, engaging in acts, practices or courses of business described above, or in the conduct of similar purport and object, in violation of Sections 5(a), 5(a), 17(a)(1), 17(a)(2) and 17(a)(3) of the Securities Act and Section 10(b) of the Exchange Act and Rule 10b-5 thereunder.

III.

Grant an Order Permanent Injunction, in form consistent with Rule 65(d) of the Federal Rules of Civil Procedures, restraining and enjoining Defendants Franklin Management, LLC, Accipter, Franklin Asset, Franklin Management, Inc. and Concord, their officers, agents, servants, employees, attorneys and those persons in active concert or participation with them who receive actual notice of the Order of Permanent Injunction, by personal service or otherwise, and each of them from, directly or indirectly, engaging in acts, practices or courses of business described above, or in the conduct of similar purport and object, in violation of Sections 5(a), 5(a), 17(a)(1), 17(a)(2) and 17(a)(3) of the Securities Act and Section 10(b) of the Exchange Act and Rule 10b-5 thereunder.

IV.

Issue an Order requiring Defendants Harrold, Franklin Management, LLC, Accipter, Franklin Asset, Franklin Management, Inc. and Concord to disgorge the ill-gotten gains that they each received as a result of their wrongful conduct, including prejudgment interest.

V.

With regard to Defendants Harrold, Franklin Management, LLC, Accipter, Franklin Asset, Franklin Management, Inc. and Concord's violative acts, practices and courses of business

set forth herein issue an Order imposing upon them appropriate civil penalties pursuant to Section 21(d)(3) of the Exchange Act [15 U.S.C. §§78u(d)(3)].

VI.

Retain jurisdiction of this action in accordance with the principals of equity and the Federal Rules of Civil Procedure in order to implement and carry out the terms of all orders and decrees that may be entered or to entertain any suitable application or motion for additional relief within the jurisdiction of this Court.

VII.

Grant appropriate ancillary and emergency relief to prevent further secretion or dissipation of assets purchased with investor funds.

VIII.

Grant Orders for such further relief as the Court may deem appropriate.

Respectfully Submitted,

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