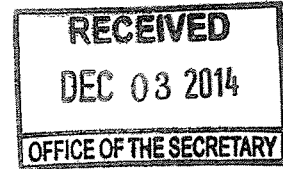


UNITED STATES OF AMERICA  
Before the  
SECURITIES AND EXCHANGE COMMISSION

**HARD COPY**

ADMINISTRATIVE PROCEEDING  
File No. 3-15764



In the Matter of  
  
GARY L. MCDUFF,  
  
Respondent.

**DIVISION OF ENFORCEMENT'S MOTION FOR  
SUMMARY AFFIRMANCE OF INITIAL  
DECISION**

Dated: December 2, 2014.

Respectfully submitted,

Janie L. Frank  
Counsel for the Division of Enforcement  
Texas Bar No. 07363050

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The Division of Enforcement (“Division”) respectfully moves for summary affirmance of the Initial Decision issued September 5, 2014, which barred Respondent Gary L. McDuff from the securities industry based on the entry of a permanent injunction against him. On November 11, 2014, McDuff petitioned the Securities and Exchange Commission (“Commission”) for review of the Initial Decision. Under Rule of Practice 411(e), the Division asks instead that the Commission summarily affirm the Initial Decision.

The Initial Decision is based on the record and a proper consideration of the public interest. McDuff’s petition does not identify any issue with the Initial Decision that warrants review by the Commission. Accordingly, the Commission should summarily affirm the Initial Decision and permanently bar McDuff from the securities industry.

**I.**  
**FACTUAL BACKGROUND**

**A. The underlying civil case.**

In 2008, the Commission filed a civil complaint against McDuff and two other defendants. *SEC v. McDuff*, Case No. 3-08-cv-526 (N.D. Tex. 2008).<sup>1</sup> The Commission alleged that McDuff was the “mastermind behind the fraud” connected with the Lancorp Financial Fund Business Trust (“Lancorp Fund”) and its investment with the Megafund Corporation (“Megafund”) Ponzi scheme. Complaint<sup>2</sup>, at 1-2. McDuff and his associates created the private placement memorandum (“PPM”) that contained multiple misrepresentations about the proposed investment in the Lancorp

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<sup>1</sup> Selected pleadings from the civil case were attached as exhibits to the Division’s Motion for Summary Disposition in the administrative proceeding below.

<sup>2</sup> The Complaint in the civil case was attached as Exhibit A to the Division’s Motion for Summary Disposition.

Fund, including that the fund would only invest in particular, high-grade debt securities. Complaint, at 5. Investors relied on these and other material misrepresentations and omissions made by McDuff and his associates, and approximately 105 of them invested nearly \$11 million in Lancorp Fund. Complaint, at 6. Instead of investing in the specified high-grade debt securities as promised, McDuff directed Lancorp Fund to invest in Megafund Corporation, a Ponzi scheme. Complaint, at 6-8. The Lancorp Fund was not allowed to pay commissions (Complaint, at 5), but McDuff devised a way to receive covert compensation for directing the investors' funds into Megafund. Complaint, at 7-9.

As a result of this conduct, the Commission alleged that McDuff violated Sections 5(a), 5(c), and 17(a) of the Securities Act of 1933 ("Securities Act"); Sections 10(b) and 15(a) of the Securities and Exchange Act of 1934 ("Exchange Act") and Rule 10b-5 thereunder; and that he aided and abetted violations of Sections 206(1) and 206(2) of the Investment Advisers Act of 1940 ("Advisers Act") (collectively "federal securities laws"). Complaint, at 8-14.

After properly serving McDuff in person on August 23, 2012, he failed to answer or otherwise appear in the litigation. Therefore, the Commission moved for default judgment against him, seeking an order permanently enjoining him from future violations of the federal securities laws, requiring him to pay disgorgement, plus prejudgment interest, and a third-tier civil money penalty. On February 22, 2013, the Northern District of Texas granted the default judgment and entered an injunction prohibiting McDuff from further violations of the federal securities laws. Order, at 2-3; Final Judgment, at 1-4.<sup>3</sup> The court further ordered McDuff to disgorge \$136,336, plus

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<sup>3</sup> The Order and Final Judgment from the civil district court are attached as Exhibits K and L, respectively, to the Division's Motion for Summary Disposition.

\$65,004 in prejudgment interest, and to pay a civil penalty of \$125,000. Final Judgment, at 4. The court entered final judgment on that date. The Commission's motion for default judgment was supported by evidence establishing McDuff's fraud and ill-gotten gains. McDuff did not appeal the civil judgment.

**B. The associated criminal case.**

Based on virtually the same conduct alleged in the Commission's enforcement action, McDuff was indicted in the Eastern District of Texas on August 13, 2009. *See United States v. Reese*, No. 4:09-cr-90 (E.D. Tex.).<sup>4</sup> In a Superseding Indictment, McDuff was charged, again based on the same facts as those underlying the Commission's case, with conspiracy to commit wire fraud and laundering of monetary instruments. Superseding Indictment (Ex. A attached hereto), at 3-6. Following a trial, the jury found McDuff guilty on both counts. Jury Verdict (Ex. B attached hereto). On April 16, 2014, the district court sentenced McDuff to 300 months in prison and a three-year term of supervised release and ordered him to pay \$6,563,179 in restitution. Minute Order (Exhibit C attached hereto); Final Judgment (Exhibit D attached hereto), at 1, 2, 5. McDuff appealed his conviction. It is currently pending before the Fifth Circuit Court of Appeals.

**C. Administrative proceedings.**

On February 21, 2014, the Commission issued the Order Instituting Administrative Proceedings ("OIP") against McDuff, pursuant to Section 15(b) of the Exchange Act. The OIP alleged that a federal district court enjoined McDuff from future violations of Sections 5(a), 5(c),

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<sup>4</sup> Pursuant to Rule 323, the ALJ took official notice of the following items from the *Reese* criminal case: the docket sheet; the Superseding Indictment (August 13, 2009, Docket No. 16) (Ex. A); Jury Verdict (March 27, 2013, Docket No. 107) (Ex. B); the district court's Minute Order of the sentencing hearing (April 16, 2014, Docket No. 153) (Ex. C); and the Final Judgment (April 17, 2014, Docket No. 158) (Ex. D). *See Gary L. McDuff*, Admin. Proc. Rulings Release No. 1400, 2014 SEC LEXIS 1445 (April 28, 2014). Except for the docket sheet, these items are attached hereto. Likewise, the Commission may also take judicial notice of these facts.

and 17(a) of the Securities Act, Sections 10(b) and 15(a) of the Exchange Act, and Rule 10b-5 thereunder in *SEC v. McDuff*. McDuff answered the OIP. The Division and McDuff each filed motions for summary disposition, responses, and replies.

On September 5, 2014, the ALJ issued the Initial Decision, granting the Division's motion and denying McDuff's. The ALJ permanently barred McDuff from associating with a broker, dealer, investment adviser, municipal securities dealer, municipal advisor, transfer agent, or nationally recognized statistical rating organization.

In the Initial Decision, the ALJ held that McDuff's defense to the OIP failed to raise a genuine issue of any material fact, and that, in fact, his arguments merely constituted collateral attacks on the civil injunction or the criminal conviction. Initial Decision, at 5.<sup>5</sup> The ALJ noted that collateral attacks on other courts' judgments are not legally permissible in an administrative proceeding. Initial Decision, at 5. The ALJ noted that if the statutory basis for an administrative sanction is nullified, the sanctioned respondent may petition the Commission for reconsideration. *Id.* Consequently, the ALJ held that McDuff failed to raise a genuine issue as to any material fact with respect to the entry of the injunction, and therefore summary disposition was appropriate.

The ALJ next considered whether the Division's requested sanction of a collateral bar was in the public interest. The ALJ clearly stated and applied the standard—the public interest factors set forth in *Steadman v. SEC*, 603 F.2d 1126, 1140 (5<sup>th</sup> Cir. 1979). The ALJ identified the factors, discussed each one in turn, and applied each factor to McDuff's conduct, relying on documents and

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<sup>5</sup> The ALJ noted that McDuff even admitted, in his Opposition to the Division's Motion (for Summary Disposition) (hereinafter cited as "McDuff's Opposition"), that his arguments were collateral attacks on the civil and criminal judgments. Initial Decision, at 5; McDuff's Opposition, at 6.

evidence in the record, including the officially noticed documents from McDuff's criminal case.<sup>6</sup>

The balance of the *Steadman* factors, the ALJ held, weighed in favor of imposing the collateral bar on McDuff. Initial Decision, at 6-9.

**D. McDuff's petition for review.**

On November 11, 2014, McDuff filed a petition for review of the Initial Decision. His argument is nothing but another improper collateral attack on the underlying civil and criminal cases. For the reasons discussed below his arguments are immaterial and not relevant to this proceeding.

**II.**  
**ARGUMENTS AND AUTHORITIES**

**A. Standard of review.**

Rule 411(a) of the Commission's Rules of Practice authorizes the Commission to "affirm, reverse, modify, set aside or remand for further proceedings, in whole or in part, an initial decision by a hearing officer and make any findings or conclusions that in its judgment are proper on the basis of the record." 17 C.F.R. § 201.411(a). The Commission's review of the Initial Decision is *de novo*. See *Richmark Capital Corp.*, 81 SEC Docket 1715 (November 7, 2003).

Under Rule 411(e), the Commission is permitted to "grant summary affirmance if it finds that no issue raised in the initial decision warrants consideration by the Commission of further

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<sup>6</sup> The ALJ noted that because the underlying civil injunction was issued by default, and that the facts alleged in the civil complaint were not actually litigated, reliance on the civil complaint to conduct the *Steadman* analysis was improper. However, the ALJ noted that he was permitted to consider the facts underlying McDuff's criminal conviction in *Reese*. Initial Decision, at 6. He further noted that McDuff conceded in his Opposition to the Division's Motion for Summary Disposition that the civil judgment, entered by default, was "predicated entirely on the same alleged conduct" as the criminal case against him and that the facts in the civil and criminal cases "must be identical in relation to the actual conduct of the Respondent." Initial Decision, at 6-7; McDuff's Opposition, at 1. Thus, the litigated findings of the criminal case were appropriate for consideration of the *Steadman* factors.

oral or written argument.” 17 C.F.R. § 201.411(e). Conversely, “[t]he Commission will decline to grant summary affirmance upon a reasonable showing that a prejudicial error was committed in the conduct of the proceeding or that the decision embodies an exercise of discretion or decision of law or policy that is important and that the Commission should review.” *Id.*

**B. Summary affirmance in follow-on proceedings.**

The Commission has held that summary affirmance is appropriate under the right circumstances. *David F. Bandimere*, Exchange Act Rel. No. 9512, 2014 WL 198175, at \*3 (Jan. 16, 2014) (quoting *Richard Cannistraro*, Exchange Act Rel. No. 39521, 1998 SEC LEXIS 15, at \*4 n. 3 (Jan. 1, 1998)). These circumstances include the review of an initial decision imposing a collateral bar in follow-on administrative proceedings, in which the bar is based on the respondent’s criminal conviction or civil injunction. Such cases are appropriate for summary affirmance because “the relevant facts are undisputed and the initial decision does not embody an important question of law or policy warranting further review by the Commission.” *Eric S. Butler*, Exchange Act Rel. No. 65204, Advisers Act Release No. 3262, 2011 SEC LEXIS 3002, at \*1-2 n.2 (Aug. 26, 2011). The Commission has granted summary affirmance in other such follow-on proceedings. *E.g.*, *Joseph Contorinis*, 2014 SEC LEXIS 1443, Exchange Act Rel. No. 72031, Advisers Act Rel. No. 3824 (April 25, 2014); *Ross Mandell*, 2014 SEC LEXIS 849, Exchange Act Release No. 71668 (March 7, 2014).

In such follow-on proceedings, the petitioner is precluded by the doctrine of collateral estoppel from challenging the underlying convictions or injunctions on which the administrative proceeding is based, thus rendering key factual issues not open to challenge in the administrative proceeding or in the appeal of an initial decision that sanctions the respondent. *See Blinder*,

*Robinson & Co. v. SEC*, 837 F.2d 1099, 1108 (D.C. Cir. 1988); *Joseph P. Galluzzi*, 55 S.E.C. 1110, 1115-16 (2002). If the petitioner does not identify a prejudicial error conducted in the course of the administrative proceeding, and if his defense is primarily a re-litigation of the underlying district court case, then the relevant facts are not in dispute and summary affirmance is appropriate. 17 C.F.R. § 201.411(e); see *Eric S. Butler*, 2011 WL 3792730 at \*1-2, n.2.

**C. This case is appropriate for summary affirmance.**

This case falls squarely into that category. McDuff was barred from the industry based on the existence of a civil injunction and a proper weighing of the *Steadman* factors. McDuff's petition for review, like his defense to the OIP, focuses exclusively on re-litigating the civil injunction and the criminal conviction. Petition for Review, at 2. The law applied by the ALJ is well-settled: a respondent is precluded from re-litigating issues that were addressed in prior proceedings in which he was a party. *Elliott v. SEC*, 36 F.3d 86, 87 (11<sup>th</sup> Cir. 1994) (per curiam); *Ulysses "Thomas" Ware*, Exchange Act Rel. No. 51222, 2005 SEC LEXIS 391 at \*3 n. 8 (Feb. 17, 2005) (multiple cases cited). The fact that McDuff appealed his criminal conviction does not preclude the Commission from acting to protect the public interest. *Id.* A petitioner-respondent's remedy--if a district court judgment is overturned by an appellate court—is to petition the Commission for reconsideration of any adverse administrative decision or sanction imposed against him, after the appeal.<sup>7</sup> *Jon Edelman*, 52 S.E.C. 789, 790 (1996).

Other than engaging in improper collateral attacks on the district court judgments, McDuff fails to point out any prejudicial defect in the conduct of the administrative proceeding. Nor does he

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<sup>7</sup> McDuff did not appeal the civil judgment; thus, it will not be overturned.



identify any important policy or exercise of discretion that would be important for the Commission to review.

Review of the Initial Decision reveals that it should be summarily affirmed. First, the relevant facts underpinning the Initial Decision are not disputed. There is no question that McDuff is subject to a permanent injunction against violations of the antifraud and broker-dealer registration provisions of the federal securities laws. Second, as highlighted below, the ALJ properly analyzed each *Steadman* factor in light of the record before him and correctly determined that the bar was in the public interest:

- **Egregiousness:** The ALJ found numerous facts demonstrating the egregiousness of McDuff's conduct, including:
  - that McDuff had created a prospectus (or PPM in the Complaint) that contained a number of affirmative false material representations, including the representation that the Lancorp Fund was only allowed to invest in original debt securities rated at least "A+" by Standard & Poor's Corporation or "A1" by Moody's Investor Service but he in fact caused Lancorp Fund to invest instead in a Ponzi scheme;
  - that McDuff omitted to disclose in the prospectus that he had a previous conviction for money laundering and did not have the requisite securities licenses;
  - that McDuff and others induced at least 50 investors to invest more than \$10 million in the Lancorp Fund, based on the representations in the prospectus and other misrepresentations<sup>8</sup>;
  - that Megafund paid Lancorp Fund a commission for its investments, part of which was passed on to McDuff, even though the prospectus stated that the principals would not be compensated for sales and even though McDuff had no license.

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<sup>8</sup> There are slight differences between the Commission's Complaint and the Justice Department's Superseding Indictment. The ALJ relied on the Superseding Indictment, as it gave McDuff the benefit of the doubt. Initial Decision, at 7 n. 11.

- **Recurrent nature:** The ALJ noted that McDuff's scheme lasted for more than two years and that it defrauded at least 50 investors, which clearly did not constitute a "momentary lapse in judgment."
- **Scienter:** The ALJ noted that the district court in the civil case made no explicit findings as to scienter, but that scienter is an element of several of the securities fraud provisions under which McDuff was enjoined. Initial Decision, at 8. In addition, the ALJ noted that McDuff's criminal conviction involved the same facts and conduct as the civil case and that his conviction on the conspiracy to commit wire fraud count required a finding of intent to defraud. Thus, the criminal conviction reflects a finding that the requisite scienter was present. *Id.*
- **Assurances against future violations and recognition of wrongful nature of conduct:** The ALJ properly determined that McDuff's own pleadings establish that there is no assurance against future violations and that McDuff does not recognize the wrongful nature of his conduct. For example, the ALJ noted that McDuff's pleadings offered no assurances that he will not violate the securities laws in the future and that McDuff, in his Answer to the OIP, continues to blame others for the investors' losses. *See* Initial Decision, at 8, citing McDuff's Answer to the OIP and McDuff's Exhibit 1, at 18-24.
- **Opportunities for future violations:** As to this *Steadman* factor, the ALJ considered that McDuff's sentence of 300 months in prison weighs in McDuff's favor, in that he will likely not have an opportunity to violate the securities laws in the future. Initial Decision, at 8. However, the ALJ looked to Commission precedent for the principle that the existence of a single violation nevertheless raises an inference that it will be repeated. Initial Decision, at 8-9. In addition, the ALJ stated that McDuff's filings do not rebut this inference, since McDuff repeatedly attacked the underlying proceeding and continues to blame others for the investors' losses.

Balancing these factors in light of the evidence in the record, the ALJ issued the bar. McDuff has offered no reason to challenge that analysis other than his legally irrelevant collateral attack on the judgments entered against him.

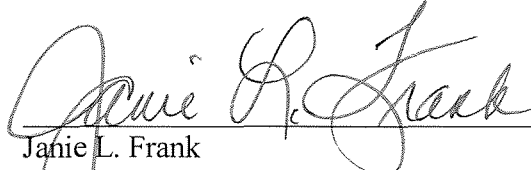
### **III. CONCLUSION**

McDuff's only argument in his petition for review is how he was wrongly convicted. He has therefore raised no basis for the Commission to review the Initial Decision. He points to no

prejudicial error in the conduct of the administrative proceeding and no important policy or law in the Initial Decision that the Commission should review. Thus, the Commission should summarily affirm the Initial Decision.

Dated: December 2, 2014.

Respectfully submitted,



Janie L. Frank  
Counsel for the Division of Enforcement  
Texas Bar No. 07363050

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**SERVICE LIST**

In accordance with Rule 150 and 151 of the Commission's Rules of Practice, I hereby certify that a true and correct copy of the foregoing ***DIVISION OF ENFORCEMENT'S MOTION FOR SUMMARY AFFIRMANCE*** was served on the persons listed below on the 2<sup>nd</sup> day of December, 2014, *via* certified mail, return-receipt requested:

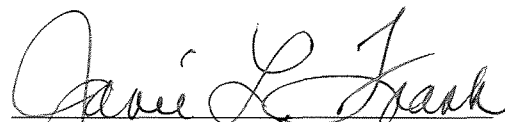
Honorable Brenda P. Murray  
Chief Administrative Law Judge  
Securities and Exchange Commission  
100 F Street, N.E.  
Washington, DC 20549-2557

Honorable Cameron Elliot  
Administrative Law Judge  
Securities and Exchange Commission  
100 F Street, N.E.  
Washington, DC 20549-2557

Janie L. Frank, Esq.  
Fort Worth Regional Office  
Securities and Exchange Commission  
801 Cherry Street, Suite 1900  
Fort Worth, TX 76102

Mr. Gary L. McDuff

[REDACTED]

  
\_\_\_\_\_  
JANIE L. FRANK

# EXHIBIT A

**FILED**

U.S. DISTRICT COURT  
EASTERN DISTRICT OF TEXAS

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
SHERMAN DIVISION

AUG 13 2009

DAVID J. MALAND, CLERK

BY \_\_\_\_\_  
DEPUTY

UNITED STATES OF AMERICA §  
§  
-vs.- §  
(1) ROBERT THOMAS REESE and §  
(2) GARY LYNN MCDUFF §

Criminal No. 4:09cr90  
Judge Schell

**SUPERSEDING INDICTMENT**

The United States Grand Jury charges:

**COUNT ONE**

Violation: 18 U.S.C. § 1349  
(Conspiracy to Commit Wire Fraud)

**Introduction**

At all times material to this Indictment:

1. An individual known to the grand jury as GLL owned and operated Lancorp Financial Group ("Lancorp") located at 1382 Leigh Court in West Linn, Oregon, which created the Lancorp Financial Fund Business Trust ("Lancorp Fund"); Lancorp controlled the following bank accounts:
  - a. account number xxxx xxxx 9153, in the name of "Lancorp Financial Group LLC," located at Bank of America in Oregon; and
  - b. account number xxxx xxxx 5323, in the name of "Lancorp Financial Group LLC LLF Business Trust," located at Bank of America in Oregon.
2. Defendant **GARY LYNN MCDUFF** ("**MCDUFF**") assisted in directing the operation of the Lancorp Fund and received payment from the Lancorp Fund for his services.

3. Defendant **ROBERT THOMAS REESE** ("**REESE**") made representations to and solicited investments from potential investors on behalf of the Lancorp Fund and received payment from the Lancorp Fund for his services.

4. Stanley Leitner ("Leitner") operated and controlled Megafund Corporation, located at 3744 Arapaho Road in Addison, Texas. The Megafund Corporation:

a. controlled and operated the Megafund ("Megafund"), an illegal investment scheme; and

b. controlled bank account number xxx-xxx6683, in the name of "Megafund Corporation Operating Account," located at Wells Fargo Bank, N.A., 4975 Preston Park Boulevard, Suite 100, in Plano, Texas, in the Eastern District of Texas.

The Conspiracy and its Objects

5. From on or about September 19, 2003 through on or about July 5, 2005, Defendants **REESE** and **MCDUFF** conspired, confederated, and agreed with GLL, not named as a defendant herein, to devise a scheme and artifice to defraud investors and to obtain money and property from these investors by materially false and fraudulent pretenses, representations, and promises, and in execution of the scheme and artifice, to cause writings, signs, and signals to be transmitted by means of a wire communication in interstate commerce, a violation of 18 U.S.C. § 1343.

Manner and Means of the Conspiracy

It was part of the manner and means of the conspiracy that:

6. **MCDUFF** and **GLL** created a prospectus and Cash Management Agreement about the Lancorp Fund that contained a number of affirmative false material representations or material factual omissions. Among these were the following:

a. The representation that the Lancorp Fund was only allowed to invest in original debt securities rated at least "A+" by Standard & Poor's Corporation or "A1" by Moody's Investor Service.

b. The representation that the goal of the Lancorp Fund was to maximize the protection of investors' funds.

c. The representation that the Lancorp Fund had been registered in a Reg D-506 filing.

d. The representation that **GLL** was a registered advisor under the Investment Advisor Act of 1940.

e. The representation that no commissions would be paid on the sale of investor shares in the Lancorp Fund and that only **GLL**, as trustee of the Lancorp Fund, would receive compensation, with any remaining income being distributed to the fund's shareholders.

f. The failure to disclose that **MCDUFF** was a convicted felon without the requisite securities licenses who was directing **GLL**'s actions.

g. The failure to disclose that **REESE** was under a Cease and Desist Order from the State of California barring him from soliciting investment due to this previous involvement with fraudulent securities offerings.



7. **REESE, MCDUFF**, and GLL caused the prospectus to be sent to potential investors in order to induce them to make payments to the Lancorp Fund.

8. **REESE, MCDUFF**, and GLL made false material representations or material factual omissions directly to potential investors in order to induce them to make payments to the Lancorp Fund, including the following:

a. The failure to disclose that **REESE** was under a Cease and Desist Order from the State of California barring him from soliciting investment due to this previous involvement with fraudulent securities offerings.

b. The failure to disclose that **REESE** was involved with **MCDUFF** in these previous fraudulent securities offerings.

c. The representation that the Lancorp Fund maintained an insurance policy to protect any investment against a loss.

d. The representation that **REESE** had personally invested in the Lancorp Fund.

e. The representation that **REESE** had invested with GLL for several years.

f. The representation that GLL had been previously involved with a similar and successful program in Europe.

g. The representation that GLL would retain total control over all of the amounts invested in the Lancorp Fund.

h. The representation that all amounts invested in the Lancorp Fund would remain in the Lancorp Fund's bank account.

9. Based on the false representations made by **REESE, MCDUFF**, and GLL, more than fifty investors provided payments in excess of \$10 million to the Lancorp Fund.

10. Contrary to the representations to the investors, GLL provided these payments to the Megafund.

11. Contrary to the representations to the investors, GLL provided payments to **MCDUFF** and **REESE**.

Overt Acts

12. On or about the following dates, in the Eastern District of Texas, for the purpose of executing the scheme and artifice, **REESE**, **MCDUFF**, and GLL transmitted or caused to be transmitted in interstate commerce, by means of a wire communication, the following signs, signals, and sounds:

a. On or about February 8, 2005, a wire transfer in the amount of \$5,000,000 from account number xxxx xxxx 5323, in the name of "Lancorp Financial Group LLC LLF Business Trust," located at Bank of America in Oregon, to bank account number xxx-xxx6683, in the name of "Megafund Corporation Operating Account," located at Wells Fargo Bank, N.A., 4975 Preston Park Boulevard, Suite 100, in Plano, Texas, in the Eastern District of Texas.

b. On or about April 5, 2005, a wire transfer in the amount of \$2,885,000 from account number xxxx xxxx 5323, in the name of "Lancorp Financial Group LLC LLF Business Trust," located at Bank of America in Oregon, to bank account number xxx-xxx6683, in the name of "Megafund Corporation Operating Account," located at Wells Fargo Bank, N.A., 4975 Preston Park Boulevard, Suite 100, in Plano, Texas, in the Eastern District of Texas.

c. On or about May 4, 2005, a wire transfer in the amount of \$1,480,000 from account number xxxx xxxx 5323, in the name of "Lancorp Financial Group LLC LLF Business Trust," located at Bank of America in Oregon, to bank account number xxx-xxx6683, in the name

of "Megafund Corporation Operating Account," located at Wells Fargo Bank, N.A., 4975 Preston Park Boulevard, Suite 100, in Plano, Texas, in the Eastern District of Texas.

All in violation of 18 U.S.C. § 1349.

**COUNT TWO**

Violation: 18 U.S.C. §§ 1956(a)(1)(A)(i)  
and 2  
(Laundering of Monetary Instruments)

On or about March 22, 2005, in the Eastern District of Texas, defendants **MCDUFF** and **REESE** did knowingly conduct and attempt to conduct a financial transaction affecting interstate and foreign commerce, to wit, **MCDUFF** and **REESE**, aided and abetted by GLL, caused Leitner to sign and send check number 1133 in the amount of \$500,000 from bank account number xxx-xxx6683, in the name of "Megafund Corporation Operating Account," located at Wells Fargo Bank, N.A., 4975 Preston Park Boulevard, Suite 100, in Plano, Texas, in the Eastern District of Texas, to Lancorp Financial Group, LLC in Oregon, which was then deposited into account number xxxxx xxxx 9153, in the name of "Lancorp Financial Group LLC," located at Bank of America in Oregon, which involved the proceeds of a specified unlawful activity, that is a violation of 18 U.S.C. § 1343 (wire fraud), with the intent to promote the carrying on of specified unlawful activity, to wit, wire fraud in violation of 18 U.S.C. § 1343, and that while conducting and attempting to conduct such financial transaction knew that the property involved in the financial transaction represented the proceeds of some form of unlawful activity.

All in violation of 18 U.S.C. § 1956(a)(1)(A)(i).

**NOTICE OF INTENT TO SEEK CRIMINAL FORFEITURE**

Pursuant to 18 U.S.C. § 982(a)(1) and (a)(4)

As the result of committing a violations of 18 U.S.C. §§ 1349 and 1956(a)(1)(A)(i) as alleged in this Indictment, each defendant shall forfeit to the United States of America pursuant to 18 U.S.C. § 982(a)(1) and (a)(4) all property, real or personal, that constitutes or is derived from proceeds traceable to the aforementioned violations, including but not limited to the following:

Cash Proceeds

Approximately \$6,372,024.79 in United States currency and all interest and proceeds traceable thereto, in that such sum in aggregate is property constituting, or derived from, proceeds obtained directly or indirectly, as the result of the foregoing offenses alleged in this Indictment.

Substitute Assets

If any of the property described above as being subject to forfeiture, as a result of any act or omission of the defendants –

- (a) cannot be located upon the exercise of due diligence;
- (b) has been transferred or sold to, or deposited with a third person;
- (c) has been placed beyond the jurisdiction of the court;
- (d) has been substantially diminished in value; or
- (e) has been commingled with other property which cannot be subdivided without difficulty;

it is the intent of the United States, pursuant to 18 U.S.C. § 982(a)(1) and (a)(4), to seek forfeiture of any other property of the defendants up to the value of the above forfeitable property, including but not limited to all property, both real and personal owned by the defendants.

By virtue of the commission of the offenses alleged in this Indictment, any and all interest that each defendant has in the above-described property is vested in the United States and hereby forfeited to the United States.

A True Bill.

DMC  
FOREMAN

JOHN M. BALES  
United States Attorney

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Shamoil T. Shipchandler  
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# EXHIBIT B

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
SHERMAN DIVISION

UNITED STATES OF AMERICA

v.

GARY LYNN MCDUFF

§  
§  
§  
§  
§

Case No. 4:09-CR-90

VERDICT OF THE JURY

We, the Jury, find as follows:

COUNT 1

As to Count 1 of the superseding indictment, we the Jury find the Defendant GARY LYNN MCDUFF:

GUILTY

(Answer "Not Guilty" or "Guilty")

COUNT 2

As to Count 2 of the superseding indictment, we the Jury find the Defendant GARY LYNN MCDUFF:

GUILTY

(Answer "Not Guilty" or "Guilty")

Date: 3/27/13

Redacted  
Foreperson



# EXHIBIT C

APPEAL

**U.S. District Court [LIVE]  
Eastern District of TEXAS (Sherman)  
CRIMINAL DOCKET FOR CASE #: 4:09-cr-00090-RAS-DDB-2**

Case title: USA v. Reese et al

Date Filed: 06/11/2009

Date Terminated: 04/17/2014

Assigned to: Judge Richard A. Schell  
Referred to: Magistrate Judge Don D. Bush

**Defendant (2)**

**Gary Lynn McDuff**

*TERMINATED: 04/17/2014*

represented by **Gary Lynn McDuff**



PRO SE

**Daniel Kyle Kemp**

Law Offices of D. Kyle Kemp  
406 N. Grand Ave  
Ste 106  
Gainesville, TX 76240  
469-223-7821  
Fax: 940-665-1634  
Email: dkylekemplaw@gmail.com  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*  
*Designation: CJA Appointment*

**Pending Counts**

ATTEMPT AND CONSPIRACY TO  
COMMIT WIRE FRAUD  
(1s)

MONEY LAUNDERING -  
INTERSTATE COMMERCE  
(2s)

**Disposition**

240 months imprisonment, 3 years  
supervised release, \$6,563,179.49  
restitution, \$100 special assessment fee

240 months imprisonment with 180  
months to run concurrent and 60  
months to run consecutive with count 1,  
3 years supervised release concurrent  
with ct 1, \$100 special assessment fee

**Highest Offense Level (Opening)**

Felony

**Terminated Counts**

ATTEMPT AND CONSPIRACY TO  
COMMIT WIRE FRAUD  
(1)

**Disposition**

dismissed

**Highest Offense Level (Terminated)**

Felony

**Complaints**

None

**Disposition**

**Plaintiff**

USA

represented by **Shamoil Shipchandler**  
Bracewell & Giuliani LLP - Dallas  
1445 Ross Ave  
Suite 3800  
Dallas, TX 75202-2724  
214-758-1048  
Fax: 800-404-3970  
Email:  
shamoil.shipchandler@bgllp.com  
*TERMINATED: 05/13/2014*  
*LEAD ATTORNEY*

**Terri L Hagan**  
U.S. Attorney's Office  
101 E. Park Blvd  
Suite 500  
Plano, TX 75074  
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*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Camelia Elisa Lopez**  
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*ATTORNEY TO BE NOTICED*

04/09/2014	<u>147</u>	Additional Attachments to Main Document: <u>140</u> Additional Attachments to Main Document, <u>137</u> Additional Attachments to Main Document, <u>142</u> Additional Attachments to Main Document, <u>138</u> Additional Attachments to Main Document, <u>136</u> Notice (Other), <u>143</u> Additional Attachments to Main Document,, <u>139</u> Additional Attachments to Main Document, <u>146</u> Additional Attachments to Main Document,, <u>141</u> Additional Attachments to Main Document, <u>144</u> Additional Attachments to Main Document,, (Attachments: # <u>1</u> The First City Partnership Limited, # <u>2</u> conditions, # <u>3</u> The Institute of chartered Accountants in England and Wales, # <u>4</u> The Association of Certified Accountants, # <u>5</u> The Insurers, # <u>6</u> Definition of Documents, # <u>7</u> continuance of Defination of Documents)(fnt, ) (Entered: 04/09/2014)
04/09/2014	<u>148</u>	Additional Attachments to Main Document: <u>147</u> Additional Attachments to Main Document. (Attachments: # <u>1</u> AWGS Excess Wording, # <u>2</u> Exhibit A to Affidavit of Lynn Hodge, # <u>3</u> Referneces for Michael J Boyd, # <u>4</u> usbank fax cover sheet, # <u>5</u> fax)(fnt, ) (Entered: 04/09/2014)
04/09/2014	<u>149</u>	Additional Attachments to Main Document: <u>148</u> Additional Attachments to Main Document,. (Attachments: # <u>1</u> Best Effors Profit Agreement, # <u>2</u> fax cover sheet, # <u>3</u> Letter Dec 21, 2001, # <u>4</u> cont, # <u>5</u> cont, # <u>6</u> letter, # <u>7</u> Piper Jaffray, # <u>8</u> attachment cont, # <u>9</u> Letter to Genen Kilanowski, # <u>10</u> email) (fnt, ) (Entered: 04/09/2014)
04/10/2014	<u>150</u>	RESPONSE to Motion by USA as to Gary Lynn McDuff re <u>132</u> MOTION to Dismiss (Shipchandler, Shamoil) (Entered: 04/10/2014)
04/15/2014	<u>151</u>	NOTICE of Allocution Witnesses needed to Introduce newly Discovered Evidence in Support of Defendant's Objections to the Presentence Report by Gary Lynn McDuff (Attachments: # <u>1</u> Envelope(s))(fnt, ) (Entered: 04/15/2014)
04/15/2014	<u>152</u>	<b>***ERROR IN PLEADING, PLEASE IGNORE***&lt;/&gt;Additional Attachments to Main Document: (Attachments: # <u>1</u> Exhibit, # <u>2</u> Exhibit, # <u>3</u> Text of Proposed Order)(Howell, Richard) Modified on 4/16/2014 (fnt, ). (Entered: 04/15/2014)</b>
04/16/2014		NOTICE of Deficiency regarding the Additional Attachment submitted. Wrong event was used to file this pleading. (fnt, ) (Entered: 04/16/2014)
04/16/2014		ORAL ORDER GRANTING Motion to Quash Subpoena as to Gary Lynn McDuff re <u>152</u> Additional Attachments to Main Document. by Judge Richard A. Schell on 4/16/14 at sentencing hearing. (bss, ) Modified on 4/16/2014 (bss, ). (Entered: 04/16/2014)
04/16/2014	<u>153</u>	Minute Entry for proceedings held before Judge Richard A. Schell:Sentencing held on 4/16/2014 for Gary Lynn McDuff (2), Count(s) 1, dismissed; Count (s) 1s, 240 months imprisonment, 3 years supervised release, \$6,563,179.49 restitution, \$100 special assessment fee; Count(s) 2s, 240 months imprisonment with 180 months to run concurrent and 60 months to run consecutive with count 1, 3 years supervised release concurrent with ct 1, \$100 special assessment fee. (Court Reporter Jerry Kelley.) (bss, ) (Entered: 04/16/2014)

# EXHIBIT D

**United States District Court**

EASTERN DISTRICT OF TEXAS

Sherman

UNITED STATES OF AMERICA

**JUDGMENT IN A CRIMINAL CASE**

**V.**

GARY LYNN MCDUFF

Case Number: 4:09CR00090-002

USM Number: 59934-079

Pro Se

Defendant's Attorney

**THE DEFENDANT:**

- pleaded guilty to count(s) \_\_\_\_\_
- pleaded nolo contendere to count(s) \_\_\_\_\_  
which was accepted by the court.
- was found guilty on count(s) 1 and 2 of the Superseding Indictment  
after a plea of not guilty.

The defendant is adjudicated guilty of these offenses:

<u>Title &amp; Section</u>	<u>Nature of Offense</u>	<u>Offense Ended</u>	<u>Count</u>
18 U.S.C. § 1349	Conspiracy to Commit Wire Fraud	07/05/2005	1
18 U.S.C. § 1956(a)(1)(A)(i)	Laundering of Monetary Instruments	03/22/2005	2

The defendant is sentenced as provided in pages 2 through 10 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

- The defendant has been found not guilty on count(s) \_\_\_\_\_
- Count(s) \_\_\_\_\_  is  are dismissed on the motion of the United States.

It is ordered that the defendant must notify the United States attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant must notify the court and United States attorney of material changes in economic circumstances.

4/16/2014

Date of Imposition of Judgment

Signature of Judge

RICHARD A. SCHELL

U.S. DISTRICT JUDGE

Name and Title of Judge

Date

DEFENDANT: GARY LYNN MCDUFF  
CASE NUMBER: 4:09CR00090-002

**IMPRISONMENT**

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of: **300 months**

Ct 1) 240 months. Ct 2) 240 months. 180 months of count 2 shall run concurrently with count 1 and 60 months of count 2 shall run consecutively to count 1, for a total term of 300 months.

The court makes the following recommendations to the Bureau of Prisons:

The court recommends that defendant participate in the inmate financial responsibility program at a rate to be determined in accordance with the program.

The court recommends that defendant be designated to FCI Bastrop or Beaumont, if eligible.

The defendant is remanded to the custody of the United States Marshal.

The defendant shall surrender to the United States Marshal for this district:

- at \_\_\_\_\_  a.m.  p.m. on \_\_\_\_\_ .
- as notified by the United States Marshal.

The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:

- before 2 p.m. on \_\_\_\_\_ .
- as notified by the United States Marshal.
- as notified by the Probation or Pretrial Services Office.

**RETURN**

I have executed this judgment as follows:

Defendant delivered on \_\_\_\_\_ to \_\_\_\_\_  
at \_\_\_\_\_, with a certified copy of this judgment.

\_\_\_\_\_  
UNITED STATES MARSHAL

By \_\_\_\_\_  
DEPUTY UNITED STATES MARSHAL

DEFENDANT: GARY LYNN MCDUFF  
CASE NUMBER: 4:09CR00090-002

### SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of : 3 years  
3 years on each count to run concurrently.

The defendant must report to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons.

The defendant shall not commit another federal, state or local crime.

The defendant shall not unlawfully possess a controlled substance. The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as determined by the court.

- The above drug testing condition is suspended, based on the court's determination that the defendant poses a low risk of future substance abuse. (Check, if applicable.)
- The defendant shall not possess a firearm, ammunition, destructive device, or any other dangerous weapon. (Check, if applicable.)
- The defendant shall cooperate in the collection of DNA as directed by the probation officer. (Check, if applicable.)
- The defendant shall comply with the requirements of the Sex Offender Registration and Notification Act (42 U.S.C. § 16901, *et seq.*) as directed by the probation officer, the Bureau of Prisons, or any state sex offender registration agency in which he or she resides, works, is a student, or was convicted of a qualifying offense. (Check, if applicable.)
- The defendant shall participate in an approved program for domestic violence. (Check, if applicable.)

If this judgment imposes a fine or restitution, it is a condition of supervised release that the defendant pay in accordance with the Schedule of Payments sheet of this judgment.

The defendant must comply with the standard conditions that have been adopted by this court as well as with any additional conditions on the attached page.

### STANDARD CONDITIONS OF SUPERVISION

- 1) the defendant shall not leave the judicial district without the permission of the court or probation officer;
- 2) the defendant shall report to the probation officer and shall submit a truthful and complete written report within the first five days of each month;
- 3) the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
- 4) the defendant shall support his or her dependents and meet other family responsibilities;
- 5) the defendant shall work regularly at a lawful occupation, unless excused by the probation officer for schooling, training, or other acceptable reasons;
- 6) the defendant shall notify the probation officer at least ten days prior to any change in residence or employment;
- 7) the defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician;
- 8) the defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
- 9) the defendant shall not associate with any persons engaged in criminal activity and shall not associate with any person convicted of a felony, unless granted permission to do so by the probation officer;
- 10) the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view of the probation officer;
- 11) the defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;
- 12) the defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court; and
- 13) as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.



DEFENDANT: GARY LYNN MCDUFF  
CASE NUMBER: 4:09CR00090-002

**ADDITIONAL SUPERVISED RELEASE TERMS**

The defendant shall provide the probation officer with access to any requested financial information for purposes of monitoring the defendant's efforts to obtain and maintain lawful employment.

The defendant shall not incur new credit charges or open additional lines of credit without the approval of the probation officer unless payment of any financial obligation ordered by the Court has been paid in full.

The defendant shall not participate in any form of gambling unless payment of any financial obligation ordered by the Court has been paid in full.

DEFENDANT: GARY LYNN MCDUFF  
 CASE NUMBER: 4:09CR00090-002

**CRIMINAL MONETARY PENALTIES**

The defendant must pay the total criminal monetary penalties under the schedule of payments on Sheet 6.

	<u>Assessment</u>	<u>Fine</u>	<u>Restitution</u>
<b>TOTALS</b>	\$ 200.00	\$ 0.00	\$ 6,563,179.49

The determination of restitution is deferred until \_\_\_\_\_. An *Amended Judgment in a Criminal Case* (AO 245C) will be entered after such determination.

The defendant must make restitution (including community restitution) to the following payees in the amount listed below.

If the defendant makes a partial payment, each payee shall receive an approximately proportioned payment, unless specified otherwise in the priority order or percentage payment column below. However, pursuant to 18 U.S.C. § 3664(i), all nonfederal victims must be paid before the United States is paid.

<u>Name of Payee</u>	<u>Total Loss*</u>	<u>Restitution Ordered</u>	<u>Priority or Percentage</u>
THOMAS FERRARA	\$15,271.29	\$15,271.29	0%
BETTY FEUERHELM	\$61,085.13	\$61,085.13	0%
MELVIN FISCHER	\$15,271.29	\$15,271.29	0%
LAWRENCE EMMERTZ JR	\$61,085.13	\$61,085.13	0%
RICHARD ELLIS	\$35,872.90	\$35,872.90	0%
HAROLD DOTTERER	\$45,813.85	\$45,813.85	0%
RANDALL DIRKS	\$23,081.63	\$23,081.63	0%
LOUIS DINA	\$115,829.37	\$115,829.37	0%
DONNA DERMODY	\$118,999.88	\$118,999.88	0%
DAN CUI	\$141,130.92	\$141,130.92	0%
ESTATE OF SARA HANAN	\$14,566.71	\$14,566.71	0%
<b>TOTALS</b>	<u>\$ 6,563,179.49</u>	<u>\$ 6,563,179.49</u>	

Restitution amount ordered pursuant to plea agreement \$ \_\_\_\_\_

The defendant must pay interest on restitution and a fine of more than \$2,500, unless the restitution or fine is paid in full before the fifteenth day after the date of the judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on Sheet 6 may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. § 3612(g).

The court determined that the defendant does not have the ability to pay interest and it is ordered that:

the interest requirement is waived for the  fine  restitution.

the interest requirement for the  fine  restitution is modified as follows:

\* Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994, but before April 23, 1996.

DEFENDANT: GARY LYNN MCDUFF  
 CASE NUMBER: 4:09CR00090-002

**ADDITIONAL RESTITUTION PAYEES**

<u>Name of Payee</u>	<u>Total Loss*</u>	<u>Restitution Ordered</u>	<u>Priority or Percentage</u>
WILLIAM HANSON	\$15,271.29	\$15,271.29	0%
WILLIAM HATFIELD	\$14,104.65	\$14,104.65	0%
DON HENDRICKSON	\$36,481.47	\$36,481.47	0%
LARRY HERBST	\$30,261.27	\$30,261.27	0%
STEPHEN HOEGLER	\$213,187.11	\$213,187.11	0%
ELISA HOFFMAN	\$28,429.06	\$28,429.06	0%
RICHARD HOLMES	\$94,681.96	\$94,681.96	0%
FRANK HOWARD	\$18,325.54	\$18,325.54	0%
PHILIP JOHNSON	\$15,271.29	\$15,271.29	0%
HELEN JOHNSON TRUST OF	\$15,271.29	\$15,271.29	0%
HAROLD JORDAN	\$15,271.29	\$15,271.29	0%
JOHN KLEJA	\$32,441.21	\$32,441.21	0%
DAVID KLINK	\$133,874.79	\$133,874.79	0%
SANDRA KNIGHT IRA FBO	\$24,434.06	\$24,434.06	0%
LEO LAGASSE	\$30,542.57	\$30,542.57	0%
MARVIN LANGSAM	\$30,261.58	\$30,261.58	0%
JOSEPH COUTURE	\$47,735.22	\$47,735.22	0%
CHARLES LOUDERDALE	\$15,271.29	\$15,271.29	0%
VIVIAN MCDUFF	\$16,747.04	\$16,747.04	0%
MARY MCKIN	\$30,542.57	\$30,542.57	0%
ROBERT MERKEL	\$28,781.26	\$28,781.26	0%
DONALD MILLS	\$30,542.57	\$30,542.57	0%
LARRY MIRACLE	\$20,555.67	\$20,555.67	0%
THOMAS NEMES	\$61,085.13	\$61,085.13	0%
CLAIRE PALS	\$154,824.12	\$154,824.12	0%
HAROLD PALS	\$484,323.17	\$484,323.17	0%

\* Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994, but before April 23, 1996.

DEFENDANT: GARY LYNN MCDUFF  
 CASE NUMBER: 4:09CR00090-002

**ADDITIONAL RESTITUTION PAYEES**

<u>Name of Payee</u>	<u>Total Loss*</u>	<u>Restitution Ordered</u>	<u>Priority or Percentage</u>
DILIP G PATEL MDSC	\$29,619.26	\$29,619.26	0%
ALVIN PERRY	\$15,271.29	\$15,271.29	0%
JEFFREY PRACT	\$36,651.08	\$36,651.08	0%
CHARLENE PRINS	\$54,976.62	\$54,976.62	0%
NORMAN PRINS	\$58,723.07	\$58,723.07	0%
LESLIE RAHNER	\$24,434.06	\$24,434.06	0%
MARK RAHNER	\$274,883.11	\$274,883.11	0%
JONATHAN REED	\$15,127.59	\$15,127.59	0%
VELMA RICHARDS	\$14,769.55	\$14,769.55	0%
MARC ROBERTSON	\$29,139.55	\$29,139.55	0%
THOMAS ROBERTSON	\$43,700.15	\$43,700.15	0%
DURWOOD ROBINSON	\$15,271.29	\$15,271.29	0%
MARGARITA ROBRES	\$14,076.74	\$14,076.74	0%
THURMAN ROSE	\$21,379.80	\$21,379.80	0%
HENRIETTA CHARTERS	\$23,293.45	\$23,293.45	0%
CHRISTOPHER CHARTERS	\$258,874.77	\$258,874.77	0%
SAMMY CATTAN	\$14,566.71	\$14,566.71	0%
ROBERT BRODERSON	\$174,086.52	\$174,086.52	0%
DOROTHY BRETT	\$15,056.91	\$15,056.91	0%
ROBERT BRAMSON	\$91,621.59	\$91,621.59	0%
ROBERT BLOCKSOM JR	\$20,675.22	\$20,675.22	0%
JOHN BLANDI	\$235,425.15	\$235,425.15	0%
JAY BILES	\$97,736.22	\$97,736.22	0%
FRANCES BENYO	\$104,978.47	\$104,978.47	0%
MARION BENNETT	\$61,085.13	\$61,085.13	0%
MICHAEL BENKERT	\$14,156.45	\$14,156.45	0%

\* Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994, but before April 23, 1996.

DEFENDANT: GARY LYNN MCDUFF  
 CASE NUMBER: 4:09CR00090-002

**ADDITIONAL RESTITUTION PAYEES**

<u>Name of Payee</u>	<u>Total Loss*</u>	<u>Restitution Ordered</u>	<u>Priority or Percentage</u>
MAX BAUMGARTNER	\$121,611.00	\$121,611.00	0%
BERT BAUMER	\$121,604.90	\$121,604.90	0%
BARBARA ALLEN	\$47,286.61	\$47,286.61	0%
AXINA ADLERBERT	\$61,085.14	\$61,085.14	0%
LLOYD FRANKO	\$35,855.20	\$35,855.20	0%
BRIAN GALLAGHER	\$76,356.42	\$76,356.42	0%
IRENE GAYDOS	\$28,856.18	\$28,856.18	0%
LONNIE GIBSON	\$34,454.46	\$34,454.46	0%
JEANNETTE GODBEHERE	\$14,566.71	\$14,566.71	0%
MARK GOODMAN	\$14,566.71	\$14,566.71	0%
ROSALIND GRIFFIN	\$16,972.12	\$16,972.12	0%
RONALD LOGAR	\$61,085.13	\$61,085.13	0%
JULIE TOLMAN	\$244,207.02	\$244,207.02	0%
FRANK TORCHIA	\$14,214.53	\$14,214.53	0%
ARMAND VAN BAELEN	\$14,566.71	\$14,566.71	0%
GERBEN VAN GELDER	\$265,611.90	\$265,611.90	0%
DOROTHY VAN SICKLE	\$242,240.34	\$242,240.34	0%
JOHN VENRICK	\$61,085.13	\$61,085.13	0%
BETTY WALLACE	\$228,445.27	\$228,445.27	0%
ALLEN SAMUELS	\$58,266.87	\$58,266.87	0%
GEORGE SCALISE	\$61,085.13	\$61,085.13	0%
CATHERINE SCOTT	\$46,725.66	\$46,725.66	0%
LOUISE SCOTT	\$30,128.73	\$30,128.73	0%
MARK SHAW	\$29,804.18	\$29,804.18	0%
ROBERT SPEARS	\$14,183.08	\$14,183.08	0%
JANE STAUDT	\$30,542.57	\$30,542.57	0%

\* Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994, but before April 23, 1996.

DEFENDANT: GARY LYNN MCDUFF  
CASE NUMBER: 4:09CR00090-002

**ADDITIONAL RESTITUTION PAYEES**

<u>Name of Payee</u>	<u>Total Loss*</u>	<u>Restitution Ordered</u>	<u>Priority or Percentage</u>
RICHARD STAUDT	\$99,053.68	\$99,053.68	0%
DEAN STEINKE	\$14,220.64	\$14,220.64	0%
LOVELL STODDARD	\$122,170.28	\$122,170.28	0%
WAYNE STRUBE	\$15,271.29	\$15,271.29	0%
WILLIAM SUMERTON	\$20,393.40	\$20,393.40	0%
CHERYL SUMMERLIN	\$15,271.29	\$15,271.29	0%
ANDREW SWAVELY	\$14,164.43	\$14,164.43	0%
VIRGINIA THIERS	\$14,566.71	\$14,566.71	0%
JERRY THOMAS	\$15,271.29	\$15,271.29	0%
MICHAEL TOBIN	\$44,999.38	\$44,999.38	0%
DONALD WECKERLY	\$30,542.57	\$30,542.57	0%
PETER WEISS	\$103,113.09	\$103,113.09	0%
SCOTT WALLS	\$32,627.42	\$32,627.42	0%

\* Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994, but before April 23, 1996.

DEFENDANT: GARY LYNN MCDUFF  
CASE NUMBER: 4:09CR00090-002

### SCHEDULE OF PAYMENTS

Having assessed the defendant's ability to pay, payment of the total criminal monetary penalties are due as follows:

- A  Lump sum payment of \$ 200.00 due immediately, balance due  
 not later than \_\_\_\_\_, or  
 in accordance  C,  D,  E, or  F below; or
- B  Payment to begin immediately (may be combined with  C,  D, or  F below); or
- C  Payment in equal \_\_\_\_\_ (e.g., weekly, monthly, quarterly) installments of \$ \_\_\_\_\_ over a period of \_\_\_\_\_ (e.g., months or years), to commence \_\_\_\_\_ (e.g., 30 or 60 days) after the date of this judgment; or
- D  Payment in equal \_\_\_\_\_ (e.g., weekly, monthly, quarterly) installments of \$ \_\_\_\_\_ over a period of \_\_\_\_\_ (e.g., months or years), to commence \_\_\_\_\_ (e.g., 30 or 60 days) after release from imprisonment to a term of supervision; or
- E  Payment during the term of supervised release will commence within \_\_\_\_\_ (e.g., 30 or 60 days) after release from imprisonment. The court will set the payment plan based on an assessment of the defendant's ability to pay at that time; or
- F  Special instructions regarding the payment of criminal monetary penalties:

Payment to begin immediately. Any amount that remains unpaid when the defendant's supervision commences is to be paid on a monthly basis at a rate of at least 15% of the defendant's gross income, to be changed during supervision, if needed, based on the defendant's changed circumstances, pursuant to 18 U.S.C. Section 3664(k). Additionally, 100% of receipts received from gifts, tax returns, inheritances, bonuses, lawsuit awards, and any other receipt of money (to include, but not limited to, gambling proceeds, lottery winnings, and found money) must be paid toward the unpaid fine balance within 15 days of receipt.

Unless the court has expressly ordered otherwise, if this judgment imposes imprisonment, payment of criminal monetary penalties is due during imprisonment. All criminal monetary penalties, except those payments made through the Federal Bureau of Prisons' Inmate Financial Responsibility Program, are made to: the U.S. District Court, Fine & Restitution, 1910 E SE Loop 323 No 287, Tyler, TX 75701

The defendant shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

- Joint and Several

Defendant and Co-Defendant Names and Case Numbers (including defendant number), Total Amount, Joint and Several Amount, and corresponding payee, if appropriate.

Defendant is jointly and severally liable with Gary Lancaster 4:09cr231 to pay restitution totaling \$6,563,179.49.

- The defendant shall pay the cost of prosecution.
- The defendant shall pay the following court cost(s):
- The defendant shall forfeit the defendant's interest in the following property to the United States:

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) fine principal, (5) fine interest, (6) community restitution, (7) penalties, and (8) costs, including cost of prosecution and court costs.