

December 17, 2014

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DEC 30 2014

Office of Administrative
Law Judges

Commission Secretary
Elizabeth M. Murphy, FBO
Office of Administrative Law Judge
U.S. Securities and Exchange Commission
100 F. Street, N.E., Mail Stop 2557
Washington, D.C. 20549

RECEIVED
DEC 30 2014
OFFICE OF THE SECRETARY

RE: File No. 3-15764; In the Matter of: Gary L. McDuff,
Respondent. Reply and Objections to the Division of
Enforcement's Request for Summary Affirmance

Dear Ms. Murphy:

Please find herewith an original plus three (3) copies of my Reply and Objections to the Division of Enforcement's Request for Summary Affirmance and Motion to Stay This Proceeding, which I request that you file and docket in the normal course. I have enclosed copies as indicated below per your instructions.

Please return a file stamped copy of this transmittal letter for my files. I have enclosed an addressed and stamped envelope for your convenience.

Thanking you in advance for your assistance in this matter.

Sincerely,

cc: (with enclosures)

(1) Hon. Brenda P. Murphy
Chief Admin. Law Judge
(Courtesy Copy)

(2) Hon. Cameron Elliot
100 F. Street, N.E.
Mail Stop 1090
Washington, D.C. 20549
(Courtesy Copy)

(3) Janie L. Frank
Counsel for the Division of Enforcement
Ft. Worth Regional Office
801 Cherry Street, Suite 1900
Ft. Worth, Texas 76102-6882



Gary L. McDuff, pro se



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UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

RECEIVED
DEC 30 2014
OFFICE OF THE SECRETARY

ADMINISTRATIVE PROCEEDING
File No. 3-15764

In the Matter of:
GARY L. MCDUFF,
Respondent

GARY L. MCDUFF'S REPLY AND
OBJECTIONS TO THE DIVISION OF
ENFORCEMENT'S REQUEST FOR
SUMMARY AFFIRMANCE, AND
MOTION TO STAY THIS PROCEEDING

Dated: December 17, 2014

Respectfully Submitted,



Gary L. McDuff, pro se



Gary L. McDuff (hereinafter referred to as Respondent) respectfully makes the following objections to the Division of Enforcement's (hereinafter referred to as DE) motion for summary affirmance of the Initial Decision issued on September 5, 2014, and requests that this proceeding be stayed until the disposition of Respondant's appeal before the United States Court of Appeals for the Fifth Circuit, and in support thereof would show the following:

I

FACTUAL BACKGROUND

A. The underlying civil case.

1. The civil case filed in the United States District Court for the Northern District of Texas in which Respondent was one of several defendants, was disposed of by a default judgment and the allegations in the DE's pleadings in such case were never proven by a preponderance of the evidence (SEC v McDuff et al Case No. 3-08-CV-526(N.D. Texas 2008)).

2. Prior to filing the civil case (No. 3-08-CV-526) in the United States District Court for the Northern District of Texas, DE had filed a contempt case against Respondent (which was subsequently dismissed), as well as the Receiver Michael J. Quilling for Megafund, Lancorp Fund, Sadaukar, CILAK, and CIG had sued Respondent and others in the United States District Court for the Northern District of Texas. Subsequent to the District Court DISMISSING the contempt motion, Respondent after, provided notice of his change of address to all parties in the pending litigation. Respondent obtained employment that required him to be located in Mexico. All ad-

verse parties were given written notice of his change of address, however with the SEC dismissing the contempt motion, Respondent reasonably believed that he was no longer the "target" of the litigation and certainly not a "target" of a criminal indictment in the United States District Court for the Eastern District of Texas.

2a. On or about June 11, 2009, an indictment against Respondent and Robert Thomas Reese was filed; a Superseding Indictment was filed on August 13, 2009. Upon voluntarily returning to the United States from his employment in Mexico, Respondent was arrested, detained pre-trial, tried for two (2) days in the United States District Court for the Eastern District of Texas, and convicted by a jury of conspiracy to commit wire fraud (violation of 18 U.S.C. § 1349), and promotional money laundering (violation of 18 U.S.C. § 1956(a)(1)(A)(i)).

3. Respondent's co-defendant Robert T. Reese before trial entered a guilty plea to conspiracy with another co-defendant Gary Lancaster (Lancaster had pled guilty early in the investigation to a violation of 18 U.S.C. § 371 conspiracy to commit wire fraud). The statute which Lancaster pled guilty to carries a statutory maximum of 5 years in prison. In return for cooperation and substantial assistance, Lancaster received a downward departure. Robert T. Reese committed suicide just prior to his scheduled date to self surrender to begin a 97 month prison sentence.

4. Respondent laboring under a delusion fostered by individuals holding themselves out as law professors and operating under the name "Adjudicators" of the "International Adjudica-

tor's Association" convinced Respondent that he had accomplished a private settlement with the government and thus the criminal action was without jurisdiction and thus void. Therefore at pre-trial and at trial Respondent refused assistance of counsel, and stated that he respectfully declined to participate as the court was without jurisdiction, which in a manner, is a motion to dismiss under Fed. R. Crim. P. 12(b). Respondent now knows that his reliance on the advise given him by "Adjudicators" of the "International Adjudicator's Association", was very much misplaced and a grave error in judgment.

5. Subsequent to conviction and sentencing the Respondent filed a request for an expedited interlocutory appeal based on actual innocence which the United States Court of Appeals for the Fifth Circuit, docketed and set an expedited briefing schedule. Further a direct appeal of the conviction and sentence was filed and a briefing schedule was ordered. Thereafter the United States Court of Appeals for the Fifth Circuit consolidated the direct appeal with the interlocutory appeal and maintained the expedited briefing schedule (See Exhibit A hereto).

6. The appeal of Respondent's conviction and sentence is predicated on the following issues:

- (i) Respondent is actually and factually innocent of the counts of conviction;
- (ii) the evidence is insufficient to support a conviction of Respondent being a co-conspirator with Robert T. Reese or Gary L. Lancaster; and,

(iii) the Government Prosecution Team, including the Receiver Michael J. Quilling, and witnesses from the SEC and the IRS-CID testified falsely, misleading the jury and assisted the Prosecution in suppressing exculpatory evidence in violation of Brady v Maryland, 373 US 83, 10 L.Ed 2d 215, 83 S.Ct. 1194 (1963). Such evidence is not limited to but includes: (1) sworn deposition testimony in 2005 and 2006 from Lancaster to the SEC, to the effect that he was in total control of Lancorp Fund and that he, not McDuff, was responsible for funding Megafund with Lancorp Fund's money, and that McDuff had no authority to obligate Lancorp Fund to do any act, nor any capacity to control any activity of Lancorp Fund (See Exhibits B & C hereto excerpt from Lancaster's deposition); (2) Lancaster provided a Declaration to the SEC in 2005 that refutes the claim that Respondent (McDuff) had any capacity with Lancorp Fund, much less the "mastermind" of anything (See Exhibit D hereto); (3) misrepresentations to the Court and jury regarding the "insurance issue" by the Government and its witnesses' regarding Lancorp Fund, by omitting the disclosure that in 2007-2008, twenty-one (21) United States District Courts had found that Lancaster advised all Lancorp Fund investors of a "material change" in the Fund that is, there was no insurance coverage and that all investors had the opportunity to receive their money back from Lancorp Fund out of the

"subscription escrow" prior to the Fund breaking escrow and selling its shares to the subscribers. See The O.N. Equity Sales Company v Steinke et al, 504 F. Supp. 2d 913; 2007 U.S. Dist. LEXIS 64842 (C.D. Calif. 2007), just one (1) of twenty-one (21) District Court cases holding the following:

"Lancaster notified Defendants in April of 2004 that a material condition of their investment had changed..."

"...the actual investment using Defendant's Funds was not made until May 2004 - two months after Lancaster became a registered representative of ONESCO...."

Thus the allegation that Lancaster was not registered is simply false and was known to the SEC lawyers at the time of the civil and criminal litigation. That being only one of several pivotable misstatements of fact and allegations made in the civil complaints as well as the indictment. Another pivotable misrepresentation made by the SEC lawyers and the Lancorp Fund Receiver Quilling was that McDuff directed the Lancorp Fund investment in Megafund, despite their knowledge of Lancaster's deposition testimony contrary thereto and despite a finding by United States District Court Judge Sam Lindsay finding that Lancaster made the investment in Megafund in reliance on an attorney's representation letter. See Quilling v Humphries, 2006 U.S. Dist. LEXIS 74568 (N.D. Tex. 2006). The lawyer was held liable for all \$9,365,000 invested by Lancaster; (4) misrepresentation from the Government that Respondent (McDuff) was by law prohibited from holding

a securities license due to a 33 year old prior conviction which is a misstatement of the requirements of 15 U.S.C. §78o(a)(6)(A)(ii)(4)(ii) and that was known or should have been known when the testimony and argument from the Government was presented to the Court and jury; and (5) the Government assisted by the SEC attorneys and the Receiver Quilling engaged in forum shopping to get the criminal case against Respondent out of the Northern District of Texas. The foregoing is a partial listing of the constitutional, procedural and statutory errors, that are not harmless, that exist in the criminal trial which DE seeks to rely on as a basis for its request for Summary Affirmance.

7. Respondent has additional issues that are being briefed and substantiated that will be in McDuff's Brief on Appeal which also bear on constitutional issues and violations which provide a basis for vacating the criminal judgment as well as granting an Appellant Acquittal.

CONCLUSION

In as much as DE seeks a Summary Affirmance predicated on the "litigated" issues in Respondent's criminal case, such Motion should be denied or the Motion stayed until the disposition of the consolidated direct and interlocutory appeals, as such litigated issues are not fairly and finally found against Respondent until the United States Court of Appeals for the Fifth Circuit issues its opinion in Respondent's appeal.

For the foregoing reasons Respondent requests the Administrative Law Judge deny DE's Motion for Summary Affirmance or alternatively stay this proceeding until Respondent's appeal is decided.

Respectfully Submitted,

Dated: December 17, 2014



Gary L. McDuff, pro se



CERTIFICATE OF FILING AND SERVICE

I, Gary L. McDuff, certify that in accordance with the Fifth Circuit's "prison mailbox rule" I have placed in the FCI-Low prison Legal Mail system a postage paid addressed package containing an original and five (5) copies of the foregoing Reply, Objections, and Motion to Stay, to:

- (1) Honorable Judge Cameron Elliot
Administrative Law Judge
100 F. Street N.E. Mail Stop 1090
Washington, D.C. 20549

and served a copy on:

Janie L. Frank
Counsel for the Division of Enforcement
Fort Worth Regional Office
801 Cherry Street, Suite 1900
Ft. Worth, Texas 76102-6882



Gary L. McDuff

EXHIBIT LIST

- Exhibit A - Interlocutory and Direct Appeal Docket (Note as of the date of this filing the appeals have been consolidated under Appeal No. 14-40905).
- Exhibit B - Deposition (excerpts) of Gary Lancaster taken on November 17, 2005.
- Exhibit C - Deposition (excerpts) of Gary Lancaster taken on March 25, 2006.
- Exhibit D - Declaration of Gary L. Lancaster supplied to the SEC via facsimile dated June 30, 2005.
-

EXHIBIT A

1. Appeal Docket for Gary L. McDuff appeal from the United States District Court for the Northern District of Texas (criminal Case).

United States Court of Appeals

FIFTH CIRCUIT
OFFICE OF THE CLERK

LYLE W. CAYCE
CLERK

TEL. 504-310-7700
600 S. MAESTRI PLACE
NEW ORLEANS, LA 70130

November 13, 2014

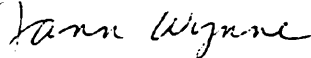
MEMORANDUM TO COUNSEL OR PARTIES LISTED BELOW:

No. 14-40905 USA v. Gary McDuff
USDC No. 4:09-CR-90-2

The court has taken the following action: "sua sponte grant" consolidation of the above referenced appeal with 14-40780, USA v. Gary McDuff. CJA attorney from case 14-40780, Daniel Kyle Kemp, has been applied to appeal 14-40905, as current counsel of record. Once the motion for appointment of new counsel in 14-40780 has been disposed of you, will receive notice as to the next steps in our Court. Revised caption included below.

Sincerely,

LYLE W. CAYCE, Clerk



By: _____
Jann M. Wynne, Deputy Clerk
504-310-7688

Ms. Terri Lynn Hagan
Mr. Daniel Kyle Kemp
Mr. Gary Lynn McDuff

New Caption to be used on further filings:

14-40780, consolidated with 14-40905

UNITED STATES OF AMERICA,



Plaintiff - Appellee

v.

GARY LYNN MCDUFF,

Defendant - Appellant

Exhibit A
page 1 of 2

- 08/20/2014  NON-DIRECT CRIMINAL CASE docketed. NOA filed by Appellant Mr. Gary Lynn McDuff [14-40905] (RLL)
- 08/21/2014 INITIAL CASE CHECK by Attorney Advisor complete, Initial AA Check Due satisfied. [14-40905] (SRF)
- 11/13/2014  CLERK ORDER sua sponte granting consolidating cases 14-40905,14-40780. [14-40905] (JMW)
- 11/13/2014 Attorney Daniel Kyle Kemp added as counsel of record for Appellant Gary Lynn McDuff in 14-40905 [14-40905] (JMW)
- 11/13/2014  UPDATED CASE PROCESSING NOTICE sent. [14-40905, 14-40780] (JMW)
- 11/18/2014 INITIAL CASE CHECK by Attorney Advisor complete, Action: Case OK to Process. [7778555-2] [14-40905, 14-40780] (RLL)
- 11/18/2014 ELECTRONIC RECORD ON APPEAL REQUESTED FROM DISTRICT COURT. Electronic ROA due on 12/03/2014. [14-40905] (JMW)

PACER Service Center			
Transaction Receipt			
5th Circuit - Appellate - 11/18/2014 22:14:14			
PACER Login:	gm4797:4168366:0	Client Code:	
Description:	Case Summary	Search Criteria:	14-40905
Billable Pages:	1	Cost:	0.10

Exhibit A
page 2 of 2

EXHIBIT B

1. Excerpt from the November 17, 2005, Deposition of Gary L. Lancaster, taken by: (1) Julia Huseman; Division of Enforcement - SEC; (2) Michael J. Quilling, Receiver for Megafund Corporation, Lancorp Financial Group, LLC et al.

COPY

1 THE UNITED STATES SECURITIES AND EXCHANGE COMMISSION

2

3 In the Matter of:)

4) File No. FW-02975-A

5 MEGAFUND CORPORATION)

6

7 WITNESS: Gary Lynn Lancaster

8 PAGES: 1 through 156

9 PLACE: 1211 SW Fifth Avenue

10 Suite 1900

11 Portland, Oregon 97204

12

13 DATE: November 17, 2005

14

15

16 The above-entitled matter came on for hearing,
17 pursuant to notice, at 9:20 a.m.

18

19

20

21

22

23

24 Diversified Reporting Services, Inc.

25 (202) 467-9200

Exhibit B
page 1 of 17

12-4-05

1 Q What year are we in now?

2 A It ended --

3 Q What year did you start at US Bank?

4 A I think it was '99 to 2002. And then I left US
5 Bank in 2002 and I've been self-employed under Lan Corp.
6 Financial Group since then.

7 Q Where is Lan Corp. Financial Group incorporated?

8 A It was -- it was incorporated in Oregon. It has
9 subsequently been moved to Washington. Registration --
10 Oh, I left out an employer. Universal Underwriters
11 was my last employer.

12 Q What licenses do you hold?

13 A Life, health, Series 6, 63, 65 and 7 are the ones
14 that I've qualified for.

15 Q Are any of them active?

16 A They have been -- all of them are active -- well,
17 in fact, I've just learned that my securities license is now
18 not being held.

19 Q When did you learn that?

20 A Last week.

21 Q And how did you learn that?

22 A By looking online for my registration.

23 (SEC Exhibit No. 16 was marked for
24 identification.)

25 Q Prior to opening the record, I gave you a copy of

Exhibit B
page 2 of 17

1 what I'm now marking as Exhibit 16, which is your
2 declaration, which was submitted with the case that was filed
3 in July. Have you had an opportunity to review that?

4 A I have.

5 Q Is there anything in that that you wish to change
6 at this time?

7 A I don't think so, no.

8 Q And, for the record, your attorneys also had an
9 opportunity to review that?

10 A Yes.

11 Q What was the first offering that you ever made from
12 Lan Corp. or using Lan Corp.?

13 A Lan Corp. financial funds?

14 Q For example, the People's Avenger Fund, tell me
15 about that.

16 A That was an attempt to register a fund as a public
17 fund.

18 Q Attempt to register it with whom?

19 A With the SEC.

20 Q And what attempts did you make to do so?

21 A Retained legal counsel to create the fund and go
22 through the legal process of registration.

23 Q And what happened in that case?

24 A It -- it was dragging on forever and it never came
25 to fruition. It was terminated.

1 Q What do you mean when you say it never came to
2 fruition?

3 A It never got registered. It never -- never went
4 effective or became registered.

5 Q When did you initiate the People's Avenger Fund?

6 A I -- I don't remember exactly. It was -- it was a
7 work in progress that was transferred over to me.

8 Q By whom?

9 A By Secured Clearing.

10 Q And what is Secured Clearing?

11 A Secured Clearing is -- is a company that was owned
12 by a gentleman in England who was -- had had a previous fund,
13 as I understood it, and was going -- wanted to do a public
14 fund to have an unlimited number of investors.

15 Q And what was that gentleman's name?

16 A Terrance D'Ath.

17 Q Could you spell that, please.

18 A T-e-r-r-a-n-c-e and I think it's D, apostrophe,
19 A-t-h. I can't remember.

20 Q How did you meet him?

21 A I met him through Gary McDuff, who was a director
22 for Secured Clearing in Houston, Texas.

23 Q How did you meet Gary McDuff?

24 A I met Gary McDuff through a client of US Bank that
25 he was representing.

Exhibit B
page 4 of 17

1 Q And what was the client's name?

2 A Morris Cerello.

3 Q Could you spell the last name.

4 A C-e-r-e-l-l-o, I think.

5 Q And how long have you known Mr. McDuff?

6 A Since 2001, I think.

7 Q What is the current nature of your relationship
8 with Mr. McDuff?

9 A Currently, I have no relationship with him. His
10 interests -- he represented Secured Clearing and his
11 interests were transferred to Mex Bank, so I have no direct
12 dealings or relationship with him at all.

13 Q When was the last time you did have direct dealings
14 or a relationship with him?

15 A At the time that the joint venture agreement was
16 executed and all of Secured Clearing's interests were
17 transferred and I don't remember that. You have that
18 document.

19 Q When you said -- when you say at the time the joint
20 venture agreement was executed, what joint venture agreement
21 are you referring to?

22 A Joint venture -- joint venture agreement with Mex
23 Bank for sharing the profits earned by Lan Corp. Financial
24 Fund.

25 Q And how much money did Mex Bank contribute to Lan

1 first met him, he was with Jackson Walker.

2 Q Does -- do you still keep in touch with Mr.
3 Reynolds?

4 A I have up until recently.

5 Q How much money did the People's Avengers Fund raise
6 from investors?

7 A None. It never became effective. No money was
8 raised for that fund.

9 Q No money was ever raised for that fund?

10 A No.

11 Q Did you prepare or issue investment documents for
12 that fund?

13 A No.

14 Q You never prepared any documents for that fund?

15 A The only documents that were prepared were by
16 Norman Reynolds to get the fund filed with the SEC.

17 MR. SELLERS: Can we go off for a minute?

18 MS. HUSEMAN: Off the record at 9:40.

19 (Whereupon, a recess was taken.)

20 MS. HUSEMAN: Back on the record at 9:45.

21 Q Mr. Lancaster, we were discussing the People's
22 Avenger Fund and you said, just to recap, that you never
23 raised any funds for that investment; is that correct?

24 A Correct.

25 Q And it was never actually registered or

Exhibit B
page 6 of 17

1 Did you register it with the Commission?

2 A I didn't.

3 Q Did you register it with any state?

4 A Yes. Every state where investors sent an
5 application to purchase shares, registration was filed in
6 each of those states.

7 Q What states were those?

8 A There's probably 20. I don't know. I couldn't
9 recite them all to you without checking my records.

10 MS. HUSEMAN: Did you want to say something?

11 MR. SELLERS: Yeah. I'm -- I'm advised that those
12 are not technically registrations in the sense that you're
13 talking about, so I don't want the record to be misconstrued
14 that my client is saying that he did a securities
15 registration in those states. Those are simply the -- the
16 state registration.

17 THE WITNESS: The Reg. D -- the Reg. D
18 registration, is that what you're referring to?

19 BY MS. HUSEMAN:

20 Q I'm just asking -- you conducted a securities
21 offering.

22 A Yes.

23 Q Either it has to be registered or there's an
24 exemption.

25 A I see.

1 Q And I'm asking, did you register your securities
2 offering with either the Commission or a state?

3 A Not that I know of. That question has to be
4 directed to Mr. Reynolds.

5 Q Okay. But I'm just asking to the best of your
6 knowledge.

7 A To the best of my knowledge, it was not registered,
8 I guess, in the sense that you're talking about. The only
9 registrations that occurred, to my knowledge, were the ones
10 in each individual state with the Reg. D filing.

11 Q And what is Reg. D?

12 A The securities regulation that governs the fund, I
13 guess. I can't define any of the --

14 Q Well, you're saying it's a Reg. D filing. What
15 does that mean to you?

16 A That -- with a specific form that was supplied to
17 me by each respective state to file the fund in that state.

18 Q And did you register the fund as a Reg. D --

19 A Yes.

20 Q -- under Reg. D?

21 A Correct.

22 Q Do you know what exemption you were going under?

23 A Not specifically.

24 MR. SELLERS: I'm going to instruct my client to
25 answer the question as to -- the question poses what you did,

1 Q What did you do with the money you received from
2 the clients?

3 A Placed it into the client trust account and then
4 subsequently into a money market account.

5 Q And where is -- is it in that account today?

6 A It is.

7 Q How much is in there?

8 A A million six something.

9 Q And where is that account held?

10 A That account is held at Fidelity.

11 Q And how many investors have funds in that account
12 currently?

13 A I don't know exactly without checking the list, but
14 somewhere around 25.

15 Q Are you paying returns on that account of those
16 investments?

17 A Not currently. I stopped doing anything subject to
18 dealing with the current issue.

19 Q And what have you told your investors about their
20 money that's sitting there?

21 A That I'm seeking guidance on the best way for me to
22 handle the funds that came in to the fund after the last
23 installment was made to Megafund.

24 Q Have you -- has anyone asked to be -- to have their
25 money refunded to them?

1 A Yes. I've had -- I don't know how many, but a
2 dozen, probably, requests for redemption.

3 Q And have you refunded their money to them?

4 A I have not. I have indicated to them that -- that
5 I can't do anything with the funds until this issue is
6 revolved.

7 Q When you say "this issue," what are you referring
8 to?

9 A Well, the issue with Megafund.

10 Q And -- but none of those funds went into Megafund;
11 correct?

12 A So you're specifically talking about the funds that
13 did not go into Megafund.

14 Q Right.

15 A Okay. I've only had, of those people, three or
16 four maybe that have requested redemption.

17 Q And have you paid -- have you given them their
18 money back?

19 A I have not. I have indicated to them that I'm
20 seeking legal counsel, guidance on what is or is not
21 appropriate on how to handle the funds that were not part of
22 the Megafund transaction.

23 Q Who introduced you to Megafund?

24 A I was introduced by Gary McDuff through his father,
25 John McDuff.

1 Q And when you say "through his father, John McDuff,"
2 who did John McDuff know?

3 A John McDuff, as I understand it, had been personal
4 friends with Stan Leitner, the principal of Megafund, for 15
5 plus years.

6 Q Did you ever meet Mr. Leitner?

7 A I did not.

8 Q Did you have any conversations or dealings with Mr.
9 Leitner?

10 A Well, I've had numerous conversations with Mr.
11 Leitner.

12 Q When did you first talk to Mr. Leitner about
13 Megafund?

14 A Sometime in January.

15 Q Of?

16 A Of '05.

17 Q And what did Mr. Leitner tell you about Megafund?

18 A He sent me an outline of the scope of what the
19 fund -- how it worked. There was two -- two specific plans
20 that he was offering to investors.

21 Q Did he give you a choice of which plan he wanted to
22 be a part of?

23 A Yes.

24 (SEC Exhibit No. 13 and 14 were
25 marked for identification.)

Exhibit B
page 11 of 17

1 Q I'm showing you what's been marked as Exhibit 13
2 and Exhibit 14. Are these the plans that he outlined to you?

3 A They are.

4 Q And which one did you invest your investors' money
5 in?

6 A I invested in the MCF 1025 plan.

7 Q And how much money did you invest?

8 A All together?

9 Q Initially.

10 A Initially, 5 million.

11 Q And when did you send 5 million to Megafund?

12 A February of '05.

13 Q How much more did you invest?

14 A There were two other installments, one for
15 2,885,000 and another one for -- I think -- I'd have to do
16 the math. The total was 9,365,000 all together.

17 Q And what did you understand you were investing your
18 investors' money in?

19 A That they -- that the -- the investments -- he
20 wasn't specific other than saying that he would comply with
21 the permitted investment section of my memorandum.

22 Q What -- what does that mean?

23 A That means it could only be invested in specific
24 things.

25 Q Okay. And what were those things?

Exhibit B
page 12 of 17

- 1 A (Nods head.)
- 2 Q What percentage of your -- what -- what were you --
- 3 what did you think you were going to receive on a monthly
- 4 basis?
- 5 A Up to 10 percent.
- 6 Q Monthly.
- 7 A Monthly.
- 8 Q Did it occur to you that any investment that pays
- 9 up to 120 percent a year is probably -- there's probably
- 10 something wrong with that?
- 11 A Not if they could prove it.
- 12 Q How did they prove it?
- 13 A Well, they would have to prove it by giving me the
- 14 rate of return.
- 15 Q What due diligence did you do on Megafund before
- 16 you invested 9.3 million, I believe? Is that correct?
- 17 A Correct.
- 18 The primary due diligence was just looking at the
- 19 referral, the references from Stan Leitner and getting a
- 20 letter in writing from legal counsel verifying that the money
- 21 would be held as agreed and would be insured.
- 22 Q And who -- what legal counsel gave you that
- 23 verification?
- 24 A A Mr. Humphries.
- 25 Q Did you speak to Mr. Humphries?

1 originally was, as I understand it, operating a fund that was
2 going to be changed to a public offering and they paid for
3 significant attorneys fees during that organizational
4 process, which didn't result in anything.

5 Q Who raised the money for Secured Clearing?

6 A I have no idea.

7 Q What was Gary McDuff's association with Secured
8 Clearing?

9 A He was a director of Secured Clearing and he was
10 the contact person for Secured Clearing.

11 Q And how many directors did Secured Clearing have?

12 A I don't know.

13 Q Do you know of any directors besides Gary McDuff?

14 A I do not.

15 Q We have to be real careful not to talk on top of
16 each other because it makes it hard for her to get.

17 And Secured Clearing's connection to Mex Bank is
18 what?

19 A The only connection that I know of is that the
20 interests of Secured Clearing in the fund were assigned to
21 Mex Bank.

22 Q And do you know what -- why that occurred?

23 A I wasn't given any reason.

24 Q So is Mr. McDuff -- does Mr. McDuff know Mr. Trejo?

25 A I don't know. I'm presuming he does.

1 A Correct.

2 Q -- out of the goodness of his heart and you didn't
3 compensate him in any way, shape or form.

4 A I did not compensate him. My -- my presumption was
5 that by referring people to the fund where they would have
6 success, that he would sell them other things.

7 Q He also, though, communicated to the investors
8 about Lan Corp.; isn't that correct?

9 A I'm sure he did, yes.

10 Q What did he know about Lan Corp.?

11 A Just what the memorandum says.

12 Q So did you tell him when you invested with
13 Megafund?

14 A No.

15 Q So did he know that you invested in Megafund? Did
16 you ever tell him?

17 A No, not until the issues came up.

18 Q And when the issues came up, did you contact Mr.
19 Rees?

20 A I've talked to Mr. Rees numerous times.

21 Q Okay. What have you talked -- when is the last
22 time you talked to him?

23 A Earlier this month.

24 Q Does he know -- does he know that you're here
25 today?

1 relationship with him in a way that I can understand why he
2 would do all this? I mean, almost every investor is
3 recommended by Rees; isn't that true?

4 A Yes. And I'm presuming that he's part of, you
5 know, the -- the Mex Bank group that's referring investors.
6 That was their role. Their compensation was to bring
7 investors to the fund.

8 Q I'm sorry. Their compensation was to bring
9 investors --

10 A The 60/40 split, part of that was based on them
11 bringing investors to the fund.

12 Q Okay. What was your 40 percent based on? What did
13 you do for the fund?

14 A Managed the fund.

15 Q And what did that involve?

16 A Keeping track of all the investors, making sure
17 everything is in compliance and doing my best efforts to
18 attempt to provide the greatest return that I could for the
19 investor.

20 Q What did you do in terms of making sure everything
21 was in compliance?

22 A What I was instructed by counsel for filings.

23 Q Is that it?

24 A Yeah.

25 Q So you maintained a database with investors.

- 1 A Correct.
- 2 Q You placed the money with Megafund and you paid out
3 two payments; is that correct?
- 4 A Correct.
- 5 Q And that's pretty much the extent of what you did.
- 6 A That was it, yeah.
- 7 Q And for that you were compensated 200 -- or excuse
8 me -- approximately \$325,000?
- 9 A Something like that.
- 10 Q When you say that Mex Bank contributed money up
11 front, that that's what I'm hearing, is that what you mean to
12 say, that they contributed money up front when you were
13 setting up the fund?
- 14 A Secured Clearing did.
- 15 Q Secured Clearing --
- 16 A Yes.
- 17 Q -- excuse me.
- 18 And how much money did Secured Clearing contribute?
- 19 A I don't remember exactly. There were significant
20 attorneys fees throughout the -- the process of attempting to
21 get the People's Avenger Fund up and running.
- 22 Q When you say "significant attorneys fees," what do
23 you mean?
- 24 A Thousands of dollars.
- 25 Q Okay. But, approximately, how much in total did

EXHIBIT C

1. Excerpt from March 25, 2006, Deposition of Gary L. Lancaster taken by: (1) Eric Werner BC; (2) Julia Huseman, Division of Enforcement - SEC; (3) Michael J. Quilling, Receiver for Megafund Corporation, Lancorp Financial Group, LLC et al; and (4) two attorneys from, Quilling Selander, Cumiskey Lownds, PC, Mr. James H. Moody III and Mr. Brent J. Rodine.

1 THE UNITED STATES SECURITIES AND EXCHANGE COMMISSION
 2
 3 In the Matter of:)
 4) File No. FW-01975-A
 5 MEGAGUND CORPORATION)
 6 WITNESS: Gary Lancaster
 7 PAGES: 157 through 423
 8 PLACE: Quilling, Selander, Cumiskey, Lownds, PC
 9 Bryan Tower
 10 2001 Bryan Street, Suite 1800
 11 Dallas, TX
 12
 13 DATE: Saturday, March 25, 2006
 14
 15 The above-entitled matter came on for hearing, pursuant
 16 to notice, at 9:25 a.m.
 17
 18
 19
 20
 21
 22
 23
 24 Diversified Reporting Services, Inc.
 25 (202) 467-9200

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 2
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 22
 23
 24
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1 QOkay. How long did it take you to raise five million
 2 dollars?
 3 A It took almost a year.
 4 QSo 2004?
 5 A Yeah.
 6 QAnd at that time, is that when you invested with the
 7 Australian entity?
 8 A Correct.
 9 QAnd were the investment documents that you sent to
 10 your investors that they filled out? Were they the same all
 11 the way through 2003 total --
 12 A Yes. They never changed.
 13 QAnd who had drawn those up for you?
 14 A Norman Reynolds.
 15 QAnd who -- did Norman Reynolds physically hand you
 16 those documents and say, use these?
 17 A He -- they were provided directly to me from him,
 18 yes.
 19 QNo. But I'm asking, did he hand, did he say to you
 20 here, use these for your investors?
 21 A No. Because I never met him face to face.
 22 QSo how did you know they were provided by him?
 23 A Correspondence. I mean letters from him and
 24 subsequent bills for it.
 25 QSo do you have copies of those bills?

1 QHe had a connection with Homeland Security?
 2 A That is what he indicated, so --
 3 QMeaning that he knew someone that worked in Homeland
 4 Security?
 5 A Someone that he had worked with or done something
 6 with before, that he had regular contact with.
 7 QAnd why would that matter in your situation?
 8 A It didn't. Just that he -- he was always checking
 9 with somebody to make sure everything was appropriate.
 10 QSo he was checking with Homeland Security to make
 11 sure the Lancorp offering was okay?
 12 A I guess.
 13 QDid that hit you -- I mean I just -- that doesn't hit
 14 you as strange?
 15 A Well, it didn't have any impact on me because I was
 16 relying entirely on Norman Reynolds to take care of that
 17 part.
 18 MS. HUSEMAN: Okay.
 19 BY MR. WERNER:
 20 QI want to ask you just a couple of quick questions
 21 here and we can take a break. First, you mentioned earlier
 22 that U.S. Bank conducted an investigation into Mr. McDuff?
 23 A Yes.
 24 QWhat was the reason for that? What was the impetus
 25 for them actually taking the effort and spending the time to

1 A Yeah.
 2 QI would like those too.
 3 A Okay.
 4 QWhat part was Gary McDuff playing in this?
 5 A He was like -- he was like a liaison with Norman
 6 Reynolds. He seemed like he talked to Norman as much or more
 7 than I did. And then I got the results of that conversation
 8 He and Norman Reynolds evidently had a previous
 9 relationship that went -- that existed prior to and then for
 10 other activities that I don't know anything about.
 11 QWas Gary McDuff ever an officer of any of the Lancorp
 12 entities that you were aware of?
 13 A No, no.
 14 QDid he ever ask to be?
 15 A No.
 16 QDid he ask not to be?
 17 A No. There was never a discussion. There was never
 18 any reason to have him be part of it.
 19 In fact, I would not wish -- with his background, I
 20 did not want him part of anything that would be attached to
 21 me that would go to the public.
 22 He made a lot of claims that he had some -- some
 23 contact with the Homeland Security and that he had taken
 24 great pains to do everything by the book, with legal counsel,
 25 advising every step of the way.

1 investigate him? --
 2 A Well, because his -- his -- I keep, had to keep
 3 records of everybody who was in attendance and who was doing
 4 what. And he was representing the transaction -- well, part
 5 of the transaction was going to occur. And they routinely do
 6 a background check on everybody.
 7 QOkay. So it wasn't anything specific that he did.
 8 It was simply --
 9 A No.
 10 Q-- just a matter of --
 11 A No. It was routine.
 12 QOkay. I'm a little curious as to how you went from
 13 learning that Mr. McDuff had a criminal record to deciding
 14 that it would be, you know, good for you to do business with
 15 him?
 16 A Well, I didn't do business with him, per se, because
 17 I was having everything done by Norman Reynolds.
 18 His whole role and what subsequently became our
 19 agreement was, that there would be a profit sharing of
 20 earnings predicated on the investors that he was responsible
 21 for bringing to the fund.
 22 QAnd I understand that. But that seems to get a
 23 little ahead of the situation. As I understand the
 24 chronology of events you were working at U.S. Bank?
 25 A Correct.

Exhibit C page 20 of 12

1 QMr. McDuff comes in as part of a transaction that
 2 ultimately never goes through. The bank does an
 3 investigation into him. Finds out that he has a criminal
 4 record. Mr. McDuff then tells you a little bit more about
 5 it. Gives you his side of the story --
 6 AUm-hum.
 7 Q-- and then you decide to work with him in some
 8 capacity.
 9 I'm wondering what was going on in your mind to
 10 make you decide, okay, I either believe Mr. McDuff -- or what
 11 was it about him that you thought it would be okay to engage
 12 in business with him, either as a partner or in some other
 13 capacity?
 14 A Well, his explanation was reasonable to me. And as
 15 long as we were having everything done and reviewed by legal
 16 counsel to protect the entity and the activity, I didn't see
 17 any problem. You know, I mean people make mistakes.
 18 I had no reason to believe, and with, you know,
 19 talking to Norman Reynolds, since he had been working with
 20 him for some period of time. As long as everything was being
 21 done correctly and being reviewed by legal counsel, if he
 22 could bring investors to the table and I could manage a fund,
 23 it looked to me like a viable opportunity.
 24 QOkay. Again, and I'm just thinking in my mind, that
 25 seems to get a little ahead of the situation. You find out

1 A Yes. I would be responsible for that, yes.
 2 QWas there any discussion with Mr. McDuff about how
 3 the responsibility for the investment decisions would be made
 4 in so far as it's solely up to you? Or, you are the point
 5 person, but there will be some other people involved in
 6 making those decisions with you?
 7 ANo. There was never any discussion of other people
 8 making decisions with me.
 9 QOkay. Did you have any prior experience running any
 10 sort of private placement or mutual fund?
 11 ANo.
 12 QDid you explain this to Mr. McDuff?
 13 AYeah. And his explanation was that, that actually
 14 that would not be a challenge because the transactions were
 15 very simple. If you buy a security and you re-sell the
 16 security you make the spread.
 17 QDid it concern you at all that he didn't have the
 18 necessary experience to do this?
 19 AOnly a little bit. And that is where I was relying
 20 on -- on the other entities to -- execute the transactions so
 21 that I would make certain that it was done correctly.
 22 That's why the agreement was made with the
 23 Australian firm, Tri Com, because they were the one actually
 24 executing the deal.
 25 QWhat about the actual investment decisions, where to

1 this information about Mr. McDuff. At that point, does he
 2 say, don't worry about my past, I would like to do business
 3 with you?
 4 I mean how did it come about that the two of you
 5 got involved in any sort of business enterprise? Was it your
 6 idea? Did you approach him and say, I know this didn't go
 7 through, but maybe we can do something ourselves?
 8 ANo. He -- he was the instigator behind saying, look,
 9 we've got all of these investors. There's all of this money
 10 out there. He said he had the contacts to -- through Secured
 11 Clearing and Terrence D'Ath and these guys to do a number of
 12 very large securities transactions that could be arranged for
 13 and be very profitable. But they needed somebody who had my
 14 background to be responsible for the fund.
 15 QTo manage the fund?
 16 AManage the fund.
 17 QAnd in your mind at that time, did you think that you
 18 would be doing the day-to-day operations, handling the actual
 19 investment of the money, or all of the above?
 20 AThe day-to-day operations of the fund itself. That
 21 the transactions would be taken care of by a broker dealer or
 22 by some other licensed entity.
 23 QBut was it your understanding that you would have
 24 discretion to invest or make the investments on behalf of the
 25 fund as you saw fit?

1 place the money, what to invest in?
 2 I mean did you have experience in managing that
 3 amount of money and basically, investing that money --
 4 ANot on that scale, no.
 5 QAnd did you explain that to Mr. McDuff?
 6 AYeah. He didn't see it as a problem.
 7 QDid you at any point say, I may not be the right
 8 person for this?
 9 AYeah. I mean I -- you know, is there anything that I
 10 -- more that I need to do or know that I'm not going to be
 11 getting direct assistance with until I'm completely competent
 12 I can do it all myself. It seemed pretty simple.
 13 QAnd what was Mr. McDuff's response?
 14 AThat Norman Reynolds and then the Australian firm
 15 would walk me right through.
 16 QDid you have the sense that even though your title or
 17 responsibility would be to manage and run the fund, that in
 18 actuality, Mr. McDuff and his crew of people would really be
 19 taken on the lion's share of the responsibility?
 20 ANo.
 21 QSo your understanding was that it was your job?
 22 AYeah.
 23 QOkay.
 24 ATheir responsibility was to bring the investors. The
 25 rest of it would be taken care of by me and by legal counsel

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1 and by investor firms.

2 Q Other than the five million dollar minimum threshold

3 at the outset, what were the -- what were the plans for the

4 fund? What did you and Mr. McDuff have in mind for Lancorp?

5 A Just for it to -- to reach the 100 investor maximum

6 and just execute trades and be profitable.

7 BY MS. HUSEMAN:

8 Q Why did you think that you had a 100 investor

9 maximum?

10 A That was my understanding of the private placement,

11 that the maximum number of investors you could have is a 100.

12 Q Who told you that?

13 A Norman Reynolds.

14 Q He told you that directly?

15 A Yeah. That is what -- is part of the provision under

16 private placement for a fund. You can have 65 accredited and

17 35 non-accredited.

18 BY MR. WERNER:

19 Q And you had no prior experience with private

20 placements to know whether or not that was true?

21 A No. I mean I had heard of them but no direct

22 experience at all.

23 Q And did you do any personal investigation or due

24 diligence to find out if that was in fact true?

25 A No. I relied entirely on counsel for that.

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1 BY MS. HUSEMAN:

2 Q When did you stop having contact with Mr. Reynolds?

3 A It was probably the end of 2004. I had the one

4 conversation with him about when -- I asked him about -- told

5 him about what was going on with the investigation.

6 Q At the end of 2004?

7 A No. I mean I had that one conversation since then,

8 but I can't -- I'm trying to remember. I can't remember the

9 last conversation I had with him.

10 Q I guess what I'm trying to ascertain, you said that

11 you placed a lot of reliance on legal counsel?

12 A Yes.

13 Q You didn't know what you were doing necessarily, but

14 you relied on them to lead you through it?

15 A Right.

16 Q Once Norman Reynolds was gone, was no longer

17 communicating with you on a pretty consistent basis, who did

18 you rely on then?

19 A I didn't have anyone that I needed to rely on, I

20 didn't think, at that point. The fund was up and running.

21 There was no need for further counsel that I knew of.

22 Q Did you rely on Norman Reynolds when you were

23 determining what your commission would be out of the fund?

24 A No.

25 Q So when he provided you the document that said that

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1 you got 50 points, that wasn't his representation to you that

2 this is what you should be taking as a commission?

3 A Oh, yeah, that was the part of the fee to the fund

4 itself, right.

5 Q Then why didn't you follow that recommendation?

6 A Well, I did up to a point. Up to a --

7 Q Yeah. You said the 50,000, and then you took a

8 100,000 on top of it. Why didn't you limit yourself to that

9 recommendation if you were relying on legal counsel?

10 A Well, up to that point, that is when Gary McDuff had

11 -- said he had a conversation with Norman Reynolds. And we

12 did a conference call indicating that the profit sharing

13 arrangement could be structured so that there was a maximum

14 amount paid to the fund and then the rest would be profits

15 that would be shared amongst --

16 Q You and Mr. McDuff?

17 A The two of us. But then I told him I can't pay him

18 commissions. It's not legal.

19 And then he -- that is when he subsequently, I

20 guess, made the arrangement with Bank of Mexico to sell his

21 interest to them.

22 Q So you couldn't pay Gary McDuff commissions, but

23 could pay Mex Bank commissions?

24 A Yes.

25 Q Why?

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1 A Because according to -- well, and this is part of the

2 conversation with Norman Reynolds on the conference call was

3 that once profits were made, they could be distributed to

4 anyone.

5 Q Why would you believe that? I give you my money and

6 you invest it and you distribute the profits to your wife,

7 you think that is okay?

8 A No, no. The -- my understanding was, that once

9 profits were -- since it was separated, Lancorp Financial

10 Group was the investment advisor for the fund, that the

11 agreement between the fund and the group would specify how

12 much would be paid to the fund.

13 And anything that was made above that, would be

14 profit to the -- Lancorp Financial Group. Once that profit

15 was made to Lancorp Financial Group, that any distribution of

16 those profits could go to anyone.

17 Q Then why would it have to go to Mex Bank? Why

18 couldn't it go directly to Gary McDuff?

19 A As far as I know it could, but that was not the

20 arrangement that he --

21 Q But I thought -- not the arrangement who?

22 A That -- not the arrangement that he wanted to make.

23 He sent me a document which I provided to Mike Quilling, and

24 I think you have a copy of it too, saying that he had

25 assigned all of his interest, Secured Clearing's interest to

1 Mex Bank.
 2 Q But why would he do that?
 3 A I don't know.
 4 Q If there is nothing wrong with this arrangement why
 5 would he do that? Did you ask him why?
 6 A Not specifically, no.
 7 MS. HUSEMAN: Okay. Off the record at 10:20.
 8 (A recess was taken.)
 9 MS. HUSEMAN: Back on the record at 10:35.
 10 BY MS. HUSEMAN:
 11 Q You said previous, before we went off the record,
 12 that you didn't do business with McDuff per se. What does
 13 that mean?
 14 A It means we were not in business together as a
 15 partnership or entity or legally connected in any fashion.
 16 Q Okay.
 17 A Other than the agreement at the end where I agreed to
 18 send the requisite percentage of profits to Mex Bank.
 19 BY MR. WERNER:
 20 Q At the outset of the arrangement as Lancorp is being
 21 established, did you have any understanding or was there any
 22 discussion that Mr. McDuff would be compensated in any way as
 23 a result of the on going operations of the Lancorp private
 24 placement fund?
 25 A Not him. But Secured Clearing, as the entity that

1 was bringing the clients, there was going to -- there needed
 2 to be a profit sharing arrangement. And I didn't have a
 3 problem with it. It seemed reasonable that there should be,
 4 you know, compensation for participation, but it had to be
 5 legal.
 6 Q I'm not entirely sure I understand what that means.
 7 Running the fund as the manager of the fund --
 8 A Um-hum.
 9 Q -- the management company or manager would be
 10 compensated as set forth in the offering memorandum, is that
 11 correct?
 12 A Correct.
 13 Q Other than how the manager would be compensated, how
 14 else would anyone be compensated or would it come from the
 15 money paid to the manager?
 16 A It would all come from the money paid to management.
 17 It was, as far as I knew, although there -- there had been
 18 discussion about participating in the actual underwriting
 19 themselves, whether it be two segments. One that is paid to
 20 the investors' money. And a separate payment that is made
 21 for the actual underwriting itself.
 22 Q Okay.
 23 A But I had no, you know, direct connection to it.
 24 Q Okay. So at the outset, did you have any say in
 25 terms of how you, as manager, would be compensated or were

1 the papers drawn up and you simply saw, oh, I'm going to
 2 receive X amount?
 3 A They were drawn up and I was to receive X amount.
 4 Q Okay. You had no say in that number?
 5 A Correct.
 6 Q And once you saw -- it's 50 basis points, is that
 7 correct?
 8 A Right.
 9 Q And once you saw that number, did you talk to Mr.
 10 McDuff or anyone else to try to negotiate that figure higher?
 11 A No. That, that to me, for that part of it, seemed
 12 reasonable.
 13 Q Okay. And how often would you be, would the manager
 14 be compensated on 50 basis points? Would it be monthly and -
 15 -
 16 A At the end of each quarter.
 17 Q And at the time, and again, talking about at the
 18 outset --
 19 A Um-hum.
 20 Q -- before any money is put into the fund --
 21 A Right.
 22 Q -- did you discuss or draw up any arrangement with
 23 Mr. McDuff on how he or others would be compensated?
 24 A No.
 25 Q At the time Lancorp received its first investor

1 funds, was there any other arrangement on how other people
 2 would be compensated?
 3 A Not that I know of, not by me.
 4 Q Okay. So any discussion or arrangement with Mr.
 5 McDuff or others came subsequent to the enrollment and
 6 initial investment into the fund?
 7 A Yes.
 8 BY MS. HUSEMAN:
 9 Q When did you have your first discussion with Mr.
 10 McDuff about him getting, receiving money from the fund?
 11 A Prior to it going effective, wanting to figure out
 12 some means by which that Secured Clearing could be
 13 compensated.
 14 Q When you use the term, going effective, do you mean
 15 prior to it reaching the fulfillment point of whatever that
 16 was, five million --
 17 A Yes.
 18 Q -- or ten million?
 19 A Yes. Right.
 20 Q When did this go effective?
 21 A I think it was March of '04.
 22 Q So prior to March of '04, you made an agreement with
 23 Mr. McDuff as per compensation, is that correct?
 24 A No. We had no agreement. We had discussions about
 25 how could they be compensated legally.

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F 3

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A)

1 Q They who?

2 A Secured Clearing. Everything was Secured Clearing.

3 Q Who else was Secured Clearing besides Mr. McDuff?

4 A To my knowledge the only principals in Secured

5 Clearing that I know of for sure was Terrence D'Ath.

6 And then Gary McDuff was a director working for Mr.

7 McDuff of Secured Clearing. So he was representing Secured

8 Clearing.

9 So it wasn't him personally. It was a compensation

10 arrangement with Secured Clearing to bring investors, bring

11 these investors over.

12 Q Okay. I don't understand what you just said. The

13 principal of Secured Clearing is Terrence D'Ath?

14 A That is my understanding.

15 Q And Gary McDuff worked for Terrence D'Ath?

16 A Yes. As a director of Secured Clearing.

17 Q But -- okay. So as the director of Secured Clearing,

18 what was Secured Clearing going to be compensated for?

19 A For bringing the investors to the fund.

20 Q How many investors did Secured Clearing bring to the

21 fund?

22 A I can't identify specifically. I'm presuming that

23 the people who referred, which include the people that came

24 from Bob Reese had -- because he -- my understanding is that

25 Bob Reese and Gary McDuff had some kind of previous

1 relationship.

2 And I don't know if that had -- I did not know or

3 do not know if that had anything to do with the Avenger Fund

4 or other arrangements.

5 Q So when you were compensating Secured Clearing, the

6 money was going to Mr. McDuff and Mr. Reese?

7 A I don't know. It was just going to Mex Bank for the

8 benefit of Secured Clearing, who would assign their interest

9 there. That was my understanding.

10 Q The fund -- you testified previously that the fund

11 went effective in March of 2004 --

12 A Yes.

13 Q -- is that correct? At that time how were you

14 compensating Secured Clearing?

15 A I wasn't.

16 Q When was the first time you paid any compensation to

17 Secured Clearing?

18 A March of '05. And it wasn't to Secured Clearing, it

19 was to Mex Bank as part of the assignment of benefit.

20 There's a document that I provided to you and Mr. Quilling.

21 Q Showing you what I have marked as Exhibit 49.

22 (SEC Exhibit No. 49 was marked for

23 identification.)

24 Is that what you are referring to?

25 A Yes. This joint venture -- yeah -- yeah.

1 Q So you are paying, you are sending the money to Mex

2 Bank who has taken over for Secured Clearing?

3 A Correct.

4 Q So you're still paying Secured Clearing?

5 A I suppose, indirectly. I don't know how that works.

6 Q What did you think was happening for that -- with

7 that money that you were sending to Secured Clearing?

8 A I assumed that a payment arrangement was made between

9 Secured Clearing and Mex Bank for the assignment.

10 Q And what do you base that assumption on?

11 A Well, I don't know how else it could work. I mean

12 that is just my own assumption.

13 Q When you and Gary Lancaster (sic) had the discussion

14 about how Secured Clearing would be compensated, what was

15 your agreement?

16 A I didn't have any agreement. We never could come to

17 terms on how it could be done legally until this agreement.

18 Q So by sending the money to Mex Bank that made it

19 legal for Secured Clearing to be compensated. Is that what

20 you are saying?

21 A I'm presuming, yeah. That was my assumption based on

22 this that -- the joint venture agreement took over the

23 interests that Secured Clearing had in the profits of the

24 fund.

25 BY MR. WERNER:

1 Q Let me step back here for a second because that

2 assumes that Secured Clearing actually had an interest in the

3 fund. Which it sounds to me like there were several

4 discussions between March of '04, a little bit earlier into

5 '05, when no one could get on the same page as to how Secured

6 Clearing could be paid.

7 A Right.

8 Q So it doesn't sound like there actually was an

9 interest to begin with.

10 A There was --

11 Q So let me take a step back here.

12 Could you go through some of the discussions that

13 you had with Mr. McDuff or others about how to compensate

14 Secured Clearing, and ultimately what happened with those

15 discussions? Why it is that nothing actually went forward?

16 A Well, because -- the discussions were figured out

17 some way that there could be a profit sharing arrangement for

18 Secured Clearing having brought the funds in.

19 And they paid for originally -- I don't even know

20 what the dollar amount was -- they paid a bunch of legal fees

21 for Norman Reynolds during the early part of trying to do the

22 People's Avenger Fund and then going into the trust itself.

23 Q Was there ever any discussion that Secured Clearing

24 might want to be an investor in the fund and that is how they

25 could share in the profits?

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1 anything? And he said, no.
 2 Now I don't know what conversation or how he was
 3 indoctrinated or what conversation he had previously with
 4 Gary McDuff about it prior to that.
 5 What I got was an e-mail saying that he, Gary
 6 McDuff, had spoken to Norman Reynolds and this was okay and
 7 this is how it would work. And so I insisted that we -- that
 8 I hear from Norman himself.
 9 Q Is there any way that you can verify that the other
 10 person on the phone with Gary McDuff was Norman Reynolds?
 11 A You know, that is a good question. I cannot because
 12 I have never met Norman, but I have talked to him numbers of
 13 times.
 14 Q Did you call him directly at the firm?
 15 A Yes.
 16 Q Did you call him directly at Jackson Walker?
 17 A At Jackson Walker and at Glast, Phillips and Murray.
 18 Q Did it sound like the same person?
 19 A Same guy every time. So yeah, I had no reason to
 20 think it wasn't him.
 21 MS. HUSEMAN: Okay.
 22 BY MR. WERNER:
 23 Q Who sent you physically the copy of the joint venture
 24 agreement?
 25 A Gary McDuff.

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1 Q Okay. And when you signed it, who did you send it
 2 back to?
 3 A Gary McDuff.
 4 Q And so at no point in time did you receive or send a
 5 copy of the joint venture agreement to Mr. Reynolds?
 6 A No.
 7 Q Looking at Exhibit 49, the joint venture agreement,
 8 there is reference to not only how profits would be shared,
 9 but also directives as to how Lancorp would be investing its
 10 funds, specifically invest funds into Megafund.
 11 It seems a little odd that a profit sharing event,
 12 that a joint venture agreement would include not only how
 13 profits would be shared, but how money would actually be
 14 invested.
 15 Had there been any discussion about the fact that
 16 you were supposed to invest money into Megafund prior to your
 17 receiving the joint venture agreement?
 18 A No. That had already been -- I can't remember. But
 19 I think I had already had contact with Stan Leitner and had
 20 already moved -- started to move forward on that.
 21 Q So at the time the joint venture agreement arrives at
 22 your door, you already have an understanding that Lancorp
 23 would be investing in Megafund?
 24 A Well, Lancorp had already made the first installment
 25 to Megafund before this was executed.

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1977
 1 Q Okay. And did you find it unusual that as part of
 2 the joint venture agreement, the agreement actually directed
 3 how Lancorp was supposed to invest its funds?
 4 Doesn't that sort of usurp your duties as manager
 5 of the fund?
 6 A Okay. I guess I didn't -- for some reason I didn't
 7 catch that -- where is it in this document that it's been
 8 said -- oh, okay. Where does it say that -- that I will
 9 direct it to Megafund -- it just says that -- that an
 10 opportunity to Megafund is there.
 11 Q Well, look at the bottom of page 1 of Exhibit 49.
 12 A Okay.
 13 Q Item 1.03.
 14 A Um-hum.
 15 Q It says, for the mutual benefit of MB and LG, MB
 16 shall direct LG to place the monies defined in 1.02 above
 17 into an investment with the Megafund Corporation.
 18 That appears to me as though this document is
 19 directing Lancorp to invest its investors monies with
 20 Megafund?
 21 A I guess I didn't -- I didn't view it in that fashion.
 22 He had -- and his, through he and his father and another
 23 friend of his father, Gary McDuff's father, had led me to
 24 Megafund.
 25 I guess the way I was looking at this, the way I

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1 read that is, since they were responsible for directing me to
 2 the Megafund investment, that the subsequent earnings from
 3 that would be paid subsequent to this agreement.
 4 Q So was it your understanding that only profits from
 5 Megafund would be covered by the joint venture agreement or
 6 was it all profits from Lancorp private placement would go,
 7 would be distributed pursuant to the joint venture?
 8 A Well, since there were no other investments of the
 9 fund, this was the -- at the time was the only investment in
 10 the fund.
 11 Q Did you feel that you had the ability or authority to
 12 invest the Lancorp private placement funds outside of
 13 Megafund?
 14 A Oh, absolutely.
 15 Q Would that have caused any problems with how the
 16 joint venture agreement was handled or how profits would be
 17 distributed?
 18 A No.
 19 Q So let's assume that instead of investing all of the
 20 money into Megafund you decide that you have another
 21 investment that is worth while, you --
 22 A Um-hum.
 23 Q -- put, let's say a couple of million dollars there,
 24 as profits are coming in --
 25 A Um-hum.

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1 Q-- arc those profits distributed pursuant to this
 2 joint venture agreement?
 3 A Yeah.
 4 BY MS. HUSEMAN:
 5 QSo Mex Bank was aware that Gary McDuff was aware of
 6 your investment in First Ban Corp?
 7 A I can't speak about Mex Bank, but Gary McDuff
 8 certainly was.
 9 QHow was Gary McDuff aware of it?
 10 A He was -- now say that question again, ma'am? Maybe
 11 I didn't catch it right.
 12 QSo Gary McDuff and I assume Mex Bank, since it had
 13 taken over for Secured Clearing and if it's your joint
 14 venture partner was aware of your investment in First Ban
 15 Corp?
 16 A In First Ban Corp, no.
 17 QWhy?
 18 A Do you mean First National Ban Corp?
 19 QUm-hum.
 20 A There's no reason for me to disclose who I was making
 21 investments to. I could pull all the money out of Megafund
 22 and it wouldn't make any difference. I could go anywhere I
 23 wanted to. And that was my intention, was to take all of the
 24 money out of Megafund and engage it with First National Ban
 25 Corp.

1 QAnd then just cut Mex Bank out?
 2 A No. They would still continue to receive the joint
 3 venture agreement --
 4 QPercentage?
 5 A -- percentage.
 6 QOf any pay out?
 7 A Any pay out.
 8 QSo why didn't you tell them that you had made an
 9 investment in First Bank -- First National Ban Corp or
 10 whatever it's called?
 11 A I guess it never occurred to me that it was
 12 necessary.
 13 QIt didn't occur to you that it was necessary to tell
 14 your joint venture partner that you redirected funds or
 15 directed funds in a new direction or directed funds to a new
 16 fund?
 17 A No.
 18 QWhy?
 19 A Because I didn't feel it was necessary. They would
 20 receive their requisite share of whatever earnings the fund
 21 would make regardless of where I placed those funds.
 22 QWell, you said you did discuss this with Gary McDuff,
 23 then why did you discuss it with him?
 24 A Once this was executed, I saw no reason to have any
 25 conversation with Gary McDuff.

1 QI thought you said that you discussed your investment
 2 in First National Ban Corp with Gary McDuff?
 3 A Oh, absolutely not.
 4 QYou did not?
 5 A I did not.
 6 QDoes Gary McDuff know Robert Tringham?
 7 A Not that I know of.
 8 QDid you ever discuss Gary McDuff with Robert
 9 Tringham?
 10 A No.
 11 QWell, with regard to once the SEC investigation was
 12 initiated and you found out about it, did you call Gary
 13 McDuff or Mex Bank or Secured Clearing Corporation to tell
 14 them about it?
 15 A I -- yeah, well, I told Gary about it. He obviously
 16 knew because his dad was an investor in the fund. And I
 17 communicated with Mex Bank and made demands for return of the
 18 money that was sent to them.
 19 QDid you make demand in writing?
 20 A Yeah. By e-mail.
 21 QDo you have a copy of that?
 22 A Yeah.
 23 QOkay.
 24 A And I received no response.
 25 QAnd was that Eduardo Trejo Comacho your contact at

1 Mex Bank?
 2 A Yes.
 3 QHave you ever met him?
 4 A No.
 5 QHave you ever talked to him on the phone?
 6 A One time.
 7 QWho set up that call?
 8 A Gary McDuff.
 9 BY MR. WERNER:
 10 QAt the time that you wrote -- look at page 2 of
 11 Exhibit 49, is that your signature above your name?
 12 A Yes.
 13 QAnd at the time you signed this document, did you
 14 read through it?
 15 A Yeah.
 16 QI want to point you to item 1.04 on page 2 of Exhibit
 17 49?
 18 A Um-hum.
 19 QIt reads, the mutual financial benefit of MB and LG
 20 shall be as follows. All of the gross profits earnings
 21 payable by the Megafund Corporation pursuant to 1.03 above
 22 and any future investment in the Megafund Corporation by LG
 23 or its affiliates shall be divided so that -- it goes on to
 24 talk about percentages --
 25 A Um-hum.

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1 A By September 1.
 2 Q Right.
 3 A Right.
 4 Q So it -- if you received those requests in August,
 5 what caused you not to redeem those shares?
 6 A I don't recall. I don't know if I ever had any. I
 7 would have to look and see.
 8 Q Would you have redeemed those shares?
 9 A I would -- there would be no reason not to.
 10 MS. HUSEMAN: Okay.
 11 BY MR. WERNER:
 12 Q Well, I'm a little confused because it seems to me
 13 there are two classes of investors. The investors whose
 14 money was invested in Megafund.
 15 A Yes.
 16 Q And those who invested afterwards.
 17 A Correct.
 18 Q And your explanation to Ms. Huseman as to those given
 19 to some investors was that you were talking to Mr. Leitner.
 20 Everything was okay.
 21 But it seems to me that would only pertain to the
 22 Megafund, if you would, investors, not the people who
 23 invested in after Megafund.
 24 Now if one of those individuals, the non-Megafund
 25 investors, sent in a request for redemption, did you honor

1 I can't honor it for X reason?
 2 A I'm -- I know I did that for some people but I don't
 3 remember who or how many.
 4 Q And what was the reason you gave?
 5 A That it was subsequent to the SEC investigation.
 6 Q But how was the non-Megafund money in any way related
 7 to the SEC investigation as you saw it?
 8 A It wasn't.
 9 MS. HUSEMAN: So who was telling you that you
 10 couldn't give that money back?
 11 BY MR. WERNER:
 12 Q Or were you doing that on your own?
 13 A Nobody was telling me not to give the money back.
 14 The only time that I remember being told not to give -- not
 15 to make redemption was by legal counsel at Schwabe.
 16 BY MS. HUSEMAN:
 17 Q And that was in October?
 18 A In October.
 19 Q So any decisions about that money prior to then would
 20 have been yours and yours alone?
 21 A Yes.
 22 Q And any representations that anyone might say that
 23 were made to them, that you were saying, the SEC won't let
 24 me, or the SEC said that I -- said that it's frozen, they
 25 would be mistaken?

1 that request or did you give them an explanation as to why
 2 you were not going to give them the money back?
 3 A The only thing that I remember is, is responding to
 4 their request for redemption at the end of the quarter.
 5 Q In -- in what fashion? Did you ever say, yes?
 6 A I just acknowledged the receipt of their request for
 7 redemption and that it would be processed at the end of the
 8 quarter.
 9 Q Did you ever redeem their request?
 10 A I -- I can't remember who I redeemed and who I
 11 didn't.
 12 Q But did you redeem the investment for anyone?
 13 A Not of that million six. Earlier, I had redeemed --
 14 Q Okay. Well, let me -- I want to talk about the
 15 million six here --
 16 A Okay.
 17 Q -- specifically. Did you receive, at any point in
 18 time, a request for redemption from any investor who did not
 19 have the funds put into Megafund?
 20 A Yes.
 21 Q And did you honor that redemption at any point?
 22 A I did not make any redemptions and I don't know what
 23 the time frames were that I received the requests.
 24 Q Of the requests that you did receive, did you respond
 25 back in any fashion saying, I've received your requests, but

1 A Say that again?
 2 Q If some investor -- say an investor calls me and
 3 said, I want -- I tried to get my money back. My money
 4 didn't go to Megafund and he won't give it back. He said you
 5 have it frozen. The SEC has it frozen.
 6 That would be wrong, correct?
 7 A I don't know that I did -- are you saying that an
 8 investor said I said that.
 9 Q If an investor -- hypothetically, if an investor said
 10 that you said that?
 11 A If an investor said that I said that, I don't recall
 12 saying that, other than to indicate that all of the assets of
 13 everyone that was part of this -- a part of the Megafund
 14 deal, their assets were all frozen.
 15 I made couple of communications to investors to let
 16 them know what the status was.
 17 BY MR. WERNER:
 18 Q Did you give that explanation to all investors in
 19 Lancorp? Or did you actually get the name, check your list,
 20 figure out if that person's money was invested in Megafund,
 21 and only give that information to Megafund investors?
 22 A At that point, you know, I can't say that I didn't do
 23 that. I was -- I was in a totally responsive mode at that
 24 point. I was responding to people's requests in giving them
 25 as much information as I could.

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1 six, because I didn't need all of the million-six of the fund
 2 to make two million dollars, and put two million dollars into
 3 the account.
 4 Q What cash management agreements did you have with
 5 these investors? Was it something that you drew up?
 6 A It was something that I drew up specifically to each
 7 of them.
 8 Q Okay. I apologize for not knowing the answer to
 9 this, but is that something that you provided to the
 10 Commission or it to Mr. Quilling?
 11 A Yeah, correct.
 12 Q And where did you get the data, the documentation or
 13 where did you come up with --
 14 A It was really just --
 15 BY MS. HUSEMAN:
 16 Q I'm sorry to interrupt, when did you provide this to
 17 the Commission?
 18 A I don't recall. It was part of everything that was
 19 provided on the CDs.
 20 Q The Fund Two agreement that you drew up, yourself?
 21 A Yeah. Without the Fund Two -- the cash management
 22 agreements.
 23 MR. WERNER: I guess, the quasi Fund One, Two.
 24 BY MS. HUSEMAN:
 25 Q Yeah, well, I'm sorry, I apologize --

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1 A Yeah --
 2 Q -- but the one that you drew up yourself, that you
 3 were responsible for putting together? Did anybody help you
 4 with it, no lawyer or anybody, you just cut and pasted it
 5 from other stuff?
 6 A Well, I just took it really out of the private
 7 placement memorandum that permitted the business section of
 8 that and made a stand alone agreement.
 9 Q Okay. I don't have a copy of that.
 10 A Oh, really.
 11 Q Okay. Did that -- did that agreement specify that
 12 the money was going to be sent to the account in New York?
 13 A It didn't specify where it was going. Just that it
 14 was following the permitted investments section and that they
 15 would get a return at the end of each quarter.
 16 So that money -- there was -- I don't remember how
 17 much, 150, 550 -- 580,000 of the two million that went to Max
 18 International was those investor's money.
 19 So not all of the fund monies went. There was
 20 still investor's funds in the client trust account in Bank of
 21 America.
 22 BY MR. WERNER:
 23 Q Did you at any point in time talk about the client
 24 management agreements?
 25 A Um-hum.

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1 Q What was it that made you think that you didn't need
 2 to lock that into a fund in order to manage their money? Or
 3 what was it that made you think you could simply sign an
 4 agreement directly with the client to invest the money on
 5 their behalf?
 6 A Just that it's a separate investment agreement to
 7 manage the fund --
 8 Q Did you, at any point in time, give consideration to
 9 registering as a broker dealer or investment advisor in order
 10 to manage their fund?
 11 A I did not.
 12 Q And did you in fact invest their funds with Mr.
 13 Tringham and Max International?
 14 A Yes.
 15 Q Do you know what dollar amount of those individual's
 16 funds --
 17 A There was -- one was 450, one was 50, one was 65, and
 18 one was 25. Now shortly thereafter --
 19 Q Uh-huh.
 20 A -- with the -- under advice of counsel, they told me
 21 I needed to wind down Fund Two and terminate it, which I then
 22 subsequently did. And then I also sent back to three of
 23 those four investors their funds.
 24 Q Well, where did those funds come from? Were they
 25 already with Max International?

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1 A They were with Max International.
 2 Q So you sent a request to Max International to
 3 retrieve those funds?
 4 A No. I actually accounted for their funds and sent
 5 them their funds out of the client trust account, Bank of
 6 America.
 7 Q Which client trust account is that?
 8 A That is Ban Corp Financial Group client trust
 9 account.
 10 Q So you had, you actually had significant assets --
 11 sufficient assets to reimburse these investors?
 12 A Yes.
 13 Q How much money was in the client trust at the time
 14 you reimbursed these investors?
 15 A A couple hundred thousand.
 16 Q And where did that money come from?
 17 A That money was -- the balance of earnings from money
 18 markets and investors funds that had not gone to Max
 19 International.
 20 BY MS. HUSEMAN:
 21 Q So you sent other investor's funds back to these
 22 people?
 23 A I sent their funds back to them.
 24 Q I thought their funds were in Max International?
 25 A Well, the two million that was sent to Max

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1 Q Did this document influence your decision to make an
2 investment with Megafund?

3 A It began the process.

4 Q I hand you now Exhibit 57.

5 (SEC Exhibit No. 57 was marked for
6 identification.)

7 Confirm for me, sir, that this is a letter dated,
8 January 31st, 2005, and it's a letter from Stan Leitner to
9 you?

10 A Yes.

11 Q The letter states, pursuant to our various
12 discussions I have advised the trader that you require an
13 attorney's opinion letter stipulating, one, the funds are
14 placed in a top tier banking institution brokerage account.

15 And two, that the principal amount of your
16 investment is insured by major insurance carrier against any
17 and all losses including fraud.

18 Do you see that?

19 A Yes.

20 Q What were the various discussions that you had?

21 A That without verification, without written
22 verification from someone that that was the case, I would not
23 proceed.

24 Q Had you required an attorney's opinion letter?

25 A Yes.

1 Q We'll get to that in a minute. The principal amount
2 of your investment is insured by a major insurance carrier,
3 did you receive such an assurance?

4 A In the letter from Humphries I also received the name
5 of the insurance company. I believe it was Nationwide.

6 Q Did you -- were you ever provided with a copy of the
7 policy?

8 A No. I asked for one and was told that also could not
9 be provided. That all I could get was the letter from the
10 attorney.

11 Q When you got the letter from the attorney, did you
12 talk to him?

13 A Yes.

14 Q Okay. Hand you Exhibit No. 58.

15 (SEC Exhibit No. 58 was marked for
16 identification.)

17 Verify for me this is a February 20 -- or February
18 7th, 2005 letter from Stan Leitner to you?

19 A Correct.

20 Q This was faxed to you?

21 A Yes.

22 Q Attached is a very poor quality copy of the letter
23 from Kenneth Humphries, is that right?

24 A Correct.

25 Q Is this the letter that you are referring to?

1 Q Did he indicate that would be problematic?

2 A No. In fact he said he would not only provide it for
3 Megafund corporate counsel, he would provide it from the
4 counsel representing the trader.

5 Q Who was the trader?

6 A That was -- he never disclosed that to me. That was
7 part of his personal confidentiality agreement. He could not
8 disclose it.

9 Q You wanted an assurance from an attorney that the
10 funds were secured in a top tiered banking institution,
11 brokerage account --

12 A Correct.

13 Q Did you get that assurance?

14 A I did.

15 Q From whom?

16 A From an attorney.

17 Q Kenneth Humphries?

18 A From Kenneth Humphries?

19 Q What account was identified? What institution or
20 brokerage account?

21 A There were a couple listed -- a couple of them
22 listed. I can't remember the -- Refco and the names of a
23 brokerage firm and a bank.

24 Q That is in Mr. Humphries letter?

25 A Yes.

1 A It is. I also, when I talked to Mr. Humphries, asked
2 him to send me the original so that I would have a clean copy
3 of this, which he never did.

4 Q I hand you now Exhibit No. 59.

5 (SEC Exhibit No. 59 was marked for
6 identification.)

7 Is this a clean copy of the letter from Mr.
8 Humphries?

9 A It is.

10 Q This attorney's address as stated on the letter is in
11 Hopkinsville, Kentucky, is that right?

12 A Yes.

13 Q Did you ask questions of Mr. Leitner why corporate
14 counsel for a company in Dallas would be using a Kentucky
15 lawyer?

16 A I did and was told that there was some -- some
17 connection and this was a top rate securities lawyer. Which
18 I didn't find unusual, given that I was in Oregon and I was
19 using an attorney in Houston, Texas. So it didn't seem out
20 of the ordinary to me.

21 Q Can you remember any specifics of what the connection
22 was?

23 A No.

24 Q Are they related by blood, marriage or some other
25 way?

1 Q What, sir, was your understanding of what these funds
 2 represented?
 3 A These represented the second month's earnings.
 4 Q Was it your understanding that the remaining portion
 5 of the 500,000 aggregate number had been wired directly to
 6 Mex Bank?
 7 A Correct.
 8 Q If you had not gotten the letter from Mr. Humphries,
 9 would you have invested with Megafund?
 10 A I would not.
 11 Q Can you say with certainty that the, it was a primary
 12 reason for you making the investment on behalf of Lancorp?
 13 A Absolutely. Without that verification, I would not
 14 have moved forward.
 15 Q I show you Exhibit No. 62.
 16 (SEC Exhibit No. 62 was marked for
 17 identification.)
 18 This -- would you verify for me, sir, that this an
 19 e-mail, letter, fax of some sort to you from Gary McDuff?
 20 A Yes.
 21 Q Do you recall the circumstances under which you
 22 received it?
 23 A Yes. It was a follow up to the conversation that
 24 Gary McDuff had had with Norman Reynolds regarding making
 25 certain that the arrangement to pay the joint venture

1 Q Did he have an existing attorney-client relationship
 2 with Gary McDuff?
 3 A I don't know.
 4 Q How about Secured Clearinghouse?
 5 A I don't know.
 6 Q How about, Mex Bank?
 7 A I don't know.
 8 Q In the legal invoices that Mr. Reynolds sent to you,
 9 did he bill you for his time and work associated with this
 10 conversation?
 11 A He did.
 12 Q Do you have copies of those invoices?
 13 A I do.
 14 Q Will you provide all of those to us?
 15 A I will.
 16 Q Can you state for me with certainty, sir, that this
 17 as a result of this e-mail and your subsequent telephone
 18 conversation with Norman Reynolds, that you agreed to allow
 19 funds to go to the parties as they subsequently went --
 20 A Correct.
 21 Q -- i.e., money to Mex Bank?
 22 A Yes.
 23 Q And you taking the fees out that you took?
 24 A Yes.
 25 Q You did that as a result of legal advice given to you

1 partnership share to Mex Bank would not be construed in any
 2 fashion as an inappropriate compensation.
 3 Q You mentioned earlier in your testimony that you
 4 received an e-mail from Gary with respect to his
 5 conversations with Norman about payment of monies to the
 6 various parties.
 7 Were you referring to this fax?
 8 A Yes.
 9 Q This is what you were talking --
 10 A This is what I was referring to, yes.
 11 Q Verify that this is a fax that you received?
 12 A It is. And I subsequently talked to Gary McDuff on
 13 the phone regarding it.
 14 Q And once you talked to him and, if I follow your
 15 testimony correctly, you also then had a conference call with
 16 Norman Reynolds?
 17 A Yes. I wanted to have verification from Norman that
 18 he in fact had discussed this with him and that this was
 19 legal and appropriate.
 20 Q Was Norman Reynolds representing Lancorp Financial at
 21 the time he was engaged in these discussions?
 22 A Yes.
 23 Q He had an existing attorney-client relationship with
 24 you at that time?
 25 A Yes.

1 by Norman Reynolds?
 2 A Correct.
 3 Q I hand you Exhibit No. 63.
 4 (SEC Exhibit No. 63 was marked for
 5 identification.)
 6 This is a letter dated, March 17th, 2005, sent to
 7 you by telecopy from Secured Clearing Corporation, signed by
 8 Gary McDuff, director. Is that right?
 9 A Yes.
 10 Q This letter is dated one day prior to the e-mail or,
 11 excuse me, the fax which you received on March 18th?
 12 A Yes.
 13 Q Did you receive -- the telecopy header at the top of
 14 the Exhibit No. 63 has a date of March 18th, 2005.
 15 Do you see that?
 16 A I do.
 17 Q Did you receive the March 17th, 2005 letter
 18 contemporaneous with receiving the fax that we just talked
 19 about as Exhibit No. 62 or --
 20 A Yes.
 21 Q -- yeah, 62?
 22 A Yes.
 23 Q So you got these documents at the same time?
 24 A Yes.
 25 Q Did you discuss with Mr. Reynolds in your telephone

EXHIBIT D

1. Declaration of Gary L. Lancaster plus exhibits sent to the SEC via facsimile on June 30, 2005.

DECLARATION OF GARY LYNN LANCASTER

I, Gary Lynn Lancaster, do hereby declare under penalty of perjury, in accordance with 28 U.S.C. § 1746, that the following is true and correct, and further that this declaration is made on my personal knowledge and that I am competent to testify as to the matters stated herein:

1. I was born on April 25, 1951 in the State of Oregon, in the United States of America. My current residence is Vancouver, Washington where I have resided since April 2005. I once held Series 6, 7, 63 and 65 licenses with the National Association of Securities Dealers, however, those licenses are currently inactive. I have no NASD disciplinary history.

2. Currently, I am the owner and CEO of Lancorp Financial Group LLC ("Lancorp Financial Group"), a privately-held Oregon limited liability company, with its primary place of business located in Vancouver, Washington. Lancorp Financial Group runs a private investment fund that was offered pursuant to Rule 506 of Regulation D. The Lancorp Financial Group offering became effective in April 2004, and the fund currently has 100 investors.

3. In late 2004 or early 2005, I first learned about Megafund Corporation ("Megafund") from an individual named Gary McDuff. I was told that Mr. McDuff's father (who is an investor in the Lancorp Financial Group fund) has been a long time friend of Stanley Leitner, the President and CEO of Megafund.

4. In January 2005, I spoke several times with Mr. Leitner about the operations of Megafund. Leitner stated that all funds invested in Megafund would be "traded" through a non-depleting account at a major brokerage firm, and that all funds were completely insured against loss of any kind. Leitner also stated that he had personally conducted a background check on the "Trader," and that the Trader was a licensed broker and that he "checked out." Further, Leitner

REDACTED

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stated that investors in Megafund's MFC1025 offering would earn ten percent each month for a 12-month period.

5. During my conversations with Mr. Leitner, I asked about the propriety and legitimacy of the Megafund offering. In response to my inquiries, in early February I received a letter from Leitner dated January 31, 2005, wherein Leitner advises that the funds are secured in a top-tier banking institution/brokerage account and that the principal amount of the investment is insured by a major insurance carrier against any and all losses including fraud and that an attorney opinion letter about the Megafund offering would be forthcoming. A copy of that letter is attached hereto as Exhibit 1.

6. On February 2, 2005, I signed a joint venture agreement on behalf of Lancorp Financial Group to invest in the Megafund MFC1025 offering. A copy of the MFC1025 offering materials are attached hereto as Exhibit 2, and a copy of the signature page from the joint venture agreement is attached hereto as Exhibit 3.

7. On February 7, 2005, I received a facsimile from Leitner, attached to which was a letter dated February 5, 2005 from the law offices of Kenneth W. Humphries ("Humphries letter"). Both Leitner's facsimile and the Humphries letter are attached hereto as Exhibit 4. In his letter, Mr. Humphries states that he has been appointed general counsel to Megafund Corporation, and represents that: (1) all funds in the "trading program" are secured in a brokerage account at a major investment bank, and (2) the principal amount of the funds are insured against losses of every description. In his facsimile, Leitner states that the Humphries letter is intended as a "stop gap," and that a letter from the attorney representing the trader will be forthcoming.

8. After receiving the Humphries letter, I contacted Mr. Humphries via telephone. During this conversation, I asked Mr. Humphries for the name of the insurance company that

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purportedly insured all principal invested in Megafund and for the name of the brokerage firm where Megafund investment funds were being held. Mr. Humphries informed me that he was prohibited from disclosing that information by various confidentiality and non-disclosure agreements. I also asked Mr. Humphries to send me a "hard copy" of his letter for my files, because the facsimile version I received was not clearly legible. Mr. Humphries promised to do so, but I never received the letter.

9. On February 8, 2005, Lancorp Financial Group invested \$5,000,000 in the Megafund MFC1025 investment plan. Pursuant to Leitner's instructions, I wired \$5,000,000 to Wells Fargo bank account no. [REDACTED] held in the name of Megafund ("Wells Fargo bank account").

10. On February 9, 2005, I received an email from Leitner that attached a letter purported to be written by Lawrence H. Schoenbach, an attorney in New York. A copy of that letter is attached hereto as Exhibit 5. This letter, written to Lancaster Financial Group, LLC, claims to represent that money invested in Megafund will be secured in accounts at JPMorgan Chase Manhattan Bank, MAN Financial, or RefCO, Inc., and that principal investment amounts will be insured by Nationwide Financial Services.

11. According to the offering materials I received, interest payments for a specific month would be paid on or about the 20th of the following month. On or about March 23, 2005, I deposited a check in the amount of \$500,000 payable on Megafund's Wells Fargo bank account, which represented the 10% earnings for the month of February for Lancorp Financial Group's \$5 million initial investment.

3
Exhibit D
Page 3 of 15

12. On April 5, 2005, I wired \$2,885,000 to Megafund's Wells Fargo bank account as an additional investment by Lancorp Financial Group in the Megafund MCF1025 investment plan.

13. On April 26, 2005, I received a wire transfer in the amount of \$324,165 from an account at Southtrust Bank, held in the name of Megafund, for the March interest payment. The remainder of the \$500,000 monthly interest payment was paid directly to a Lancorp Financial Group joint venture partner.

14. On May 4, 2005, I wired \$1,480,000 to Megafund's Wells Fargo bank account as an additional investment by Lancorp Financial Group in the Megafund MCF1025 investment plan.

15. On or about May 20, I called Leitner to inquire about the April interest payment owed to Lancorp Financial Group. During this conversation, Leitner stated that Megafund's lawyer advised Megafund to change from a Joint Venture offering to an offering conducted pursuant to Rule 506 of Regulation D. As a result, Leitner's plan was for Megafund to close out the current offering, return all funds invested in Megafund, and then initiate a new offering under Regulation D. Mr. Leitner also told me that Lancorp Financial Group's funds would be returned in two steps – Megafund would first make the April interest payment, and then Megafund would return the invested principal amount of \$7,885,000.00, followed by payment of the earnings/interest on the last invested deposit of \$1.48 million, and then the return of the \$1.48 million principal immediately thereafter.

16. Concerned about the viability of Megafund and the location of funds invested by Lancorp Financial Group, in or around early June 2005, I contacted Lawrence Schoenbach. At that time, Mr. Schoenbach stated that he did not know or represent Leitner, Megafund or any

4
Exhibit D
page 4 of 15

APP 4

entity doing business with them. Mr. Schoenbach immediately sent me a letter confirming his position. This letter is attached hereto as Exhibit 6.

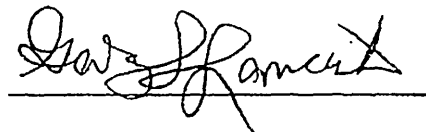
17. On June 7, 2005, I sent an e-mail to Leitner requesting the return, pursuant to the terms of the Joint Venture agreement, of all funds invested by Lancorp Financial Group. That same day, Mr. Leitner sent me a response, via e-mail, stating that Lancorp Financial Group's "monies will be released incrementally over the next two weeks consistent [sic] with the terms and conditions relative to resolving the SEC inquiry." A copy of my e-mail to Leitner and his response are attached hereto as Exhibit 7.

18. From approximately May 20 through June 29, 2005, during numerous telephone conversations that took place between Mr. Leitner and me, Leitner provided several explanations as to why interest payments had not been made and investor funds had not been returned, including: (a) investor funds had been sent to the US in Euros, and had to be sent back and converted into dollars before being distributed; (b) the transfer investor funds was being delayed by the Department of Homeland Security; and (c) investor funds were frozen pursuant to a Temporary Restraining Order but that the facilitator, Trader and his attorney were working to have the freeze removed; and (d) an agreement was being negotiated with the Securities and Exchange Commission (SEC) whereby the return of investor funds by Megafund would resolve all SEC issues. Each time I talked to Leitner, he provided a date by which funds would be transferred to Lancorp Financial Group, but each deadline came and went without execution.

19. Neither Lancorp Financial Group, nor any persons or entities affiliated with or related to Lancorp Financial Group, have received any funds from Megafund or Leitner since April 26, 2005.

I, Gary Lynn Lancaster, do hereby declare under penalty of perjury, in accordance with 28 U.S.C. § 1746, that the foregoing is true and correct.

Executed on the 30 day of June 2005.

A handwritten signature in black ink, appearing to read "Gary Lancaster", is written over a horizontal line.

Gary L. Lancaster



MEGAFUND
CORPORATION

January 31, 2005

Mr. Gary L. Lancaster
President
Lancorp Financial Group, LLC
1382 Leigh Court
West Linn, Oregon 97068

Dear Mr. Lancaster,

Pursuant to our various discussions I have advised the trader that you require an attorney's opinion letter stipulating: 1) that the funds are secured in a top-tier banking institution/brokerage account and 2) that the principal amount of your investment is insured by a major insurance carrier against any and all losses including fraud

I've been advised that the opinion letter is forthcoming. In the interim, please accept this letter as validation of those points.

Upon receipt of the opinion letter I will fax a copy to you and overnight the original.

I'm sorry for the delay.

Best of physical and fiscal health.

Sincerely,

Stan Leitner
President

Post-it™ Fax Note	7671	Date	1/29/05	# of pages	▶
To	STEVE WEBSTER		From		
Co./Dept.			Co.		
Phone #			Phone #		
Fax #	917-979-5700		Fax #		



Exhibit D
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APP 7

ABOUT US

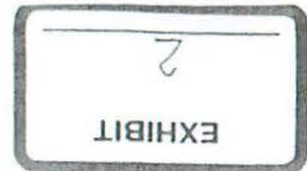
First and foremost Megafund Corporation does not advertise for nor in any other manner solicit clientele. Our clients are introduced to us exclusively through referrals from existing clients.

Megafund Corporation has a contractual agreement with a trading firm that specializes in purchasing and selling various money market instruments. The trading firm transacts large volume purchases of these instruments at a negotiated discount and sells the instruments to various lower volume purchasers at a higher unit price. The lower volume purchasers are identified and committed to the purchase before the "buy" is consummated by the trading firm ("arbitrage").

Megafund's role is to render to the trading firm capital generated by our clients. Thereafter, we maintain the accounts and distribute the scheduled payments.

Megafund Corporation
3744 Arapaho Road
Addison, TX 75001
Phone 972-759-0924
Fax 972-919-2729

MFC1025 PLAN



APP 8

1 You, the client enter into a One Year Joint Venture Agreement with Megafund Corporation which provides for ten percent (10%) profit return per month.

2 Megafund Corporation transfers the funds received from you to a sole signatory account at a major U.S. Brokerage firm, which funds are under the total control of Megfund's Affiliate.

3 A trader with whom Megfund's Affiliate has a contractual relationship has "Trading Authorization" to trade the account but cannot withdraw funds from the account.

An investment made between the 1st day and 9th day of any month will render to you a profit of 10% on the 15th day of the month following (Ex: an investment made prior to September 10th will yield a 10% return on October 15th).

5 The Trader engages in arbitrage; the practice of simultaneously purchasing and selling in order to profit from the price differential.

4 The Trader engages in the purchase and sale of debt instrument money market investments, among which are: Treasury bills, commercial paper, certificates of deposit, banker's acceptances and time deposits.

Exhibit D
page 8 of 15

7 After receipt of your first payment, you'll be scheduled for subsequent payments every thirty (30) days thereafter until you've received a total of twelve (12) monthly payments.

8 You will receive an accounting quarterly and a 1099 form reflecting the aggregate earned in a calendar year.

9 You may add to your investment at any time. However, each additional investment requires a separate 12 month JVAM.

10 Concurrent with the receipt of your twelfth (12th) payment you'll have the option to withdraw your principal amount, increase, decrease or maintain the same amount and "roll" it into another One Year Joint Venture Agreement.

Megafund 5 Year Projected Return (based on 10% per month)

MARRIED			SINGLE			501(c)3 TAX EXEMPT ORG.		
	Investment	12 Month* Return	Federal Income Taxes	Investment	12 Month* Return	Federal Income Taxes	Investment	12 Month* Return
Year 1	10,000	12,000	400	10,000	12,000	1,050	10,000	12,000
Year 2	21,600	25,920	1,973	20,950	25,140	3,021	22,000	26,400
Year 3	45,547	54,656	6,283	43,069	51,683	9,091	48,400	58,080
Year 4	93,920	112,704	19,786	85,661	102,793	22,897	106,480	127,776
Year 5	186,838	224,205	52,779	165,557	198,669	52,241	234,256	281,100
	358,265			311,985			515,356	
Year 1	25,000	30,000	2,585	25,000	30,000	3,750	25,000	30,000
Year 2	52,415	62,898	7,520	51,250	61,500	11,545	55,000	66,000
Year 3	107,793	129,352	24,288	101,205	121,446	28,120	121,000	145,200
Year 4	212,857	255,428	63,083	194,531	233,437	63,714	266,200	319,440
Year 5	405,202	486,242	142,545	364,254	437,105	133,243	585,640	702,768
	748,899			668,116			1,288,408	
Year 1	50,000	60,000	7,085	50,000	60,000	11,170	50,000	60,000
Year 2	102,915	123,498	22,648	98,830	118,596	27,322	110,000	132,000
Year 3	203,765	244,517	59,482	190,104	228,125	61,961	242,000	290,400
Year 4	388,800	466,560	135,565	356,268	427,521	129,888	532,400	638,880
Year 5	719,795	863,754	274,583	653,901	784,681	254,894	1,171,280	1,405,536
	1,308,965			1,183,687			2,576,816	
Year 1	100,000	120,000	21,611	100,000	120,000	27,715	100,000	120,000
Year 2	198,390	238,067	57,353	192,285	230,742	62,825	220,000	264,000
Year 3	379,104	454,925	131,493	360,202	432,243	131,541	484,000	580,800
Year 4	702,536	843,044	267,334	660,904	793,085	257,836	1,064,800	1,277,760
Year 5	1,278,246	1,533,895	509,132	1,196,153	1,435,383	482,640	2,342,560	2,811,072
	2,303,009			2,148,896			5,153,632	

*CONSIDERATIONS

1. The current 10% yield is only applicable to the current trading program (2005-2006).
 Future programs (2006 and beyond) may not sustain a 10% return.

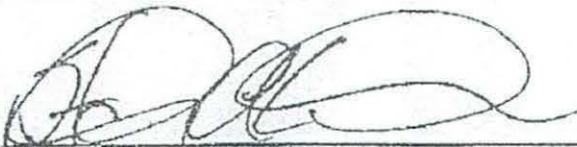
Exhibit D
page 9 of 15

12/03/2005 11:43 9729192728
2-01-2005 3:28PM

IGI CSR FAX
FROM LANCASTER 5036755013


PAGE 03
P. 1

I, THE UNDERSIGNED UNDERSTAND AND AGREE WITH THE TERMS, CONDITIONS, AND PRINCIPLES OF THIS DOCUMENT, AND HAVE NOT BEEN COERCED OR INFLUENCED IN ANY WAY TO ENTER INTO THIS JOINT VENTURE ASSET MANAGEMENT AGREEMENT. I HAVE DONE SO OF MY OWN VOLITION AND WARRANT THAT I CONSIDER MYSELF AN INTELLIGENT AND INFORMED INVESTOR AND HAVE MADE SUCH INQUIRIES AND HAVE RECEIVED SUCH DISCLOSURES AS I DEEM NECESSARY. MY SIGNATURE HERETO ALSO ATTESTS TO THE FACT THAT I HAVE NOT BEEN SOLICITED BY ANYONE OR ANY ENTITY TO ENTER INTO THIS TRANSACTION.

By: 
Stanley A. Leitner, President, CEO

Date: 2-02-05

CLIENT: LANCORP FINANCIAL GROUP LLC Date: 1-31-05
Print Name

 PRESIDENT
Full Legal Signature

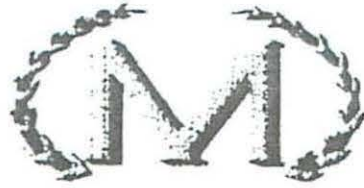
2/01/05

6

Client Initials 

Exhibit D
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EXHIBIT
3



MEGAFUND CORPORATION

February 7, 2005

To: Gary Lancaster
President
Landcorp Financial Group, LLC

Fax: 503-488-5852

From: Stan Leitner
Megafund Corporation

Fax: 972-919-²⁷²⁹~~5965~~

Gary,

Ken's letter is merely intended as a "stop gap." The letter from the attorney representing the trader will be forthcoming, however, my concern is that it may not be sent prior to the outer limit cut off date for the receipt of funds (prior to the close of business on February 8, 2005).

If Ken's letter is acceptable, kindly wire the funds, if not, kindly advise.

Best of physical and fiscal health.

Sincerely,

Stan Leitner

EXHIBIT
4

Exhibit D
page 11 of 15

LAW OFFICES
KENNETH W. HAMPDEN

TELEPHONE
503-686-9997

FURTHER OFFICE DOR 14
110 EAST MAIN ST. SEASIDE
UNIVERSITY MICROFILMS

February 5, 2005

Mr. Gary Lancaster
President
Lancorp Financial Group, LLC
1382 Leigh Court
West Linn, Oregon 97068

Dear Mr. Lancaster:

I have recently been appointed general counsel to Megafund Corporation and in that capacity can attest to and reiterate the following:

1. All funds involved in the "trading program" are secured in a brokerage account at a major investment institution.
2. The principal amount of the funds are insured against losses of every description.

Mr. Lancaster, I understand that Mr. Leitner, President of Megafund, has advised you that the name of the trader, the identities of the brokerage firm, and the insurance carrier are not to be divulged for reasons which he previously delineated. Accordingly, I am precluded from providing any information other than that which is contained herein.

I trust this information is helpful.

Sincerely,

Kenneth W. Hampden
Kenneth W. Hampden

270 886-5649

002@

Kenneth Hampden

02/05/2005 19:03 FAX 2708865649

Exhibit D
page 12 of 15

Law Offices of

Lawrence H. Schoenbach

The Trinity Building
111 Broadway, 13th Floor
New York, New York 10006
(212) 346 - 2400
Facsimile (212) 346-2400
Email: schoenbachlawoffice@att.net

To: Lancaster Financial Group, LLC
C/o of Mega Fund Corporation
3744 Arapaho Road
Addison, Texas 75001

At the request of my client whose name will not be divulged by mutual agreement, I Represent the following to be factual in all respects:

1. In the event that client opts to participate in the trading program the funds will be Secured in either
 - (a) JPMorgan Chase Manhattan Bank, N.A. or alternatively
 - (b) in a brokerage account at a MAN Financial, Inc and/or RefCO, Inc.
2. The principal amount of your investment will be insured by Nationwide Financial Services, Inc., Nationwide Financial Services (Bermuda), Inc. against any and all losses.

I trust this information satisfies your concerns.

Respectfully,

Mr. Lawrence H. Schoenbach
Compliance Counsel
:ma

Exhibit D
page 13 of 15



APP 13

LAW OFFICES OF
LAWRENCE H. SCHOENBACH

THE TRINITY BUILDING
111 BROADWAY, 13TH FLOOR
NEW YORK, NEW YORK 10006
(212) 346-2400

FACSIMILE (212) 346-4885

E-MAIL:
SCHOENBACHLAWOFFICE@ATT.NET

25, AVENUE D'EYLAU
75116, PARIS, FRANCE

TALSTRASSE 82
POSTFACH 4818
8022, ZÜRICH, SWITZERLAND

JOSEFA MENDIA 488
URBANIZACION LOS MAESTROS
SAN JUAN, PUERTO RICO 00923

9618 ESTATE THOMAS, SUITE 1
TRAMWAY BUILDING NO. 2
CHARLOTTE AMALIE, ST. THOMAS
UNITED STATES VIRGIN ISLANDS

LAWRENCE H. SCHOENBACH*
PARTNER, INSTITUTE FOR TAX AND
COMMERCIAL LAW, CH-ZÜRICH

OF COUNSEL

ELLEN BESSIS**
JÜRIG BRAND***
CARL J. HARTMANN, III+
ERICA B. POPKIN
ANA BERTA VAZQUEZ**
A. JEFFREY WEISS***

*ALSO ADMITTED IN D. PUERTO RICO AND U.S.V.I.
**ADMITTED IN FRANCE ONLY
***ADMITTED IN SWITZERLAND ONLY
+ADMITTED IN U.S.V.I. AND N.M. ONLY
**ADMITTED IN PUERTO RICO ONLY
***ALSO ADMITTED IN U.S.V.I. AND ILL.

June 7, 2005

Via Facsimile Only (503 210-1583)

Mr. Gary Lancaster
Lancaster Financial Group, LLC
400 West 8th Street, #204
Vancouver, Washington 98666

Via Facsimile Only

Mr. Stan Leitner
Mega Fund Corporation
3744 Arapaho Road
Addison, Texas 75001

Gentlemen,

I am in receipt of an undated letter from Mr. Lancaster, purported to be from me, regarding, apparently, a proposed trading transaction and identifying me as Compliance Counsel. A copy of that letter is attached for your convenience.

Be advised that I am not the author of this letter nor am I Corporate Counsel to any firm with which you are doing business. This letter is a fraud and you should treat it as such. I will refer this matter to the appropriate authorities.

Very truly yours,

LAW OFFICES OF
LAWRENCE H. SCHOENBACH

By


Lawrence H. Schoenbach, Esq.

LHS/sms
Attachment

Exhibit D
page 14 of 15



From: Lancorp Financial Group [mailto:lancorpfincialgroup@comcast.net]
Sent: Thursday, June 23, 2005 2:03 PM
To: websters@sec.gov
Subject: FW: Megafund - Lancorp Financial Group LLC

From: [REDACTED]
Sent: Tuesday, June 07, 2005 1:30 PM
To: lancorpfincialgroup@comcast.net
Subject: Re: Megafund - Lancorp Financial Group LLC

I am in receipt of your e-mail. Your request is duly noted, however, as I've explained the monies will be released

incrementally over the next week to two weeks consistant with the terms and conditions relative to resolving the SEC inquiry.

Best Regards,
Stan

----- Original Message -----

From: "Lancorp Financial Group" <lancorpfincialgroup@comcast.net>
To: "Stan Leitner" <[REDACTED]>
Subject: Megafund - Lancorp Financial Group LLC
Date: Tue, 7 Jun 2005 11:11:35 -0700

>

> Dear Mr. Leitner,

>

>

>

> As per the terms of the joint venture agreement dated and signed on 2/2/05, Lancorp Financial Group LLC does hereby request refund of all of the funds placed with Megafund (\$9,365,000.00) and the earnings for April of \$778,500.00 and the earnings for May of \$148,000.00.

>

>

>

> Best Regards,

>

>

>

> Gary L. Lancaster

>

> President

Exhibit D
page 15 of 15

