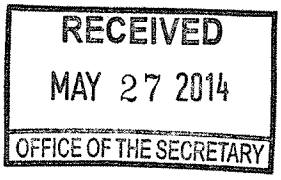
UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION
May 22, 2014

Administrative Proceeding
File No. 3-15784



In the Matter of

GEORGE LOUIS THEODULE,

Respondent.

DIVISION OF ENFORCEMENT'S MOTION FOR SANCTIONS AGAINST RESPONDENT GEORGE LOUIS THEODULE

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I. Introduction

Pursuant to Rules 155(a) and 220(f) of the Commission's Rules of Practice, and the Law Judge's Order Finding Respondent In Default And Requesting Motion For Sanctions ("Default Order") dated May 13, 2014, the Division of Enforcement moves for the sanction of an industry bar from association against Respondent George Theodule pursuant to Section 15(b) of the Securities Exchange Act of 1934 ("Exchange Act") and Section 203(f) of the Investment Advisers Act of 1940 ("Advisers Act"). We set forth the grounds for the sanction below.

II. History Of The Case

The Commission issued the OIP on March 12, 2014, pursuant to Exchange Act Section 15(b) and Advisers Act Section 203(f). In summary, the OIP alleges Theodule fraudulently targeted and solicited Haitian-American investors to invest in his companies in 2007 and 2008, while at the same time giving them investment advice and receiving transaction-based compensation. These facts eventually led both to a guilty plea and conviction in a criminal case, and a final judgment against him in a Commission enforcement action.

The Division, using a process server, served Theodule personally at the Federal Detention Center in Miami, Florida, on April 4, 2014. *See* Division's Notice of Filing Return of Service, dated April 7, 2014. Theodule's Answer was due on April 24, 2014. *See* Order Following Prehearing Conference, dated April 14, 2014. Theodule did not answer or otherwise appear in the case. *See* Order to Show Cause, dated April 25, 2014. Pursuant to the Order to Show Cause, Theodule had until May 12, 2014 to respond and show cause why the Law Judge should not determine the proceeding against him. *Id.* Theodule did not respond, and on May 13, the Law Judge determined Theodule to be in

default and requested the Division to file the instant motion. Default Order at 1.

III. Memorandum Of Law

1. Allegations Of The OIP The Law Judge May Deem True

Pursuant to Rule 155(a), the Law Judge may deem the allegations of the OIP as true for purposes of determining sanctions against Theodule. *Rapoport v. SEC*, 682 F.3d 98, 108 (D.C. Cir. 2012); *In the Matter of Peak Wealth Opportunities, LLC and David W. Dube*, AP File No. 3-14979, 2013 WL 812635 at *1 (March 5, 2013). The OIP is attached as Exhibit 1 to this motion. The relevant allegations are:

- From July 2007 through December 2008, Theodule was the president and sole officer and director of Creative Capital Consortium, LLC, and also managed A Creative Capital Concept$ (collectively "Creative Capital"). Theodule used both entities to raise funds from investors; neither entity was ever registered with the Commission. OIP at ¶ II.A.1.

- During 2007 and 2008, as sole officer and president of the Creative Capital entities, Theodule: solicited investor contributions; touted his stock trading strategy; made investment decisions on behalf of clients; controlled clients' trading accounts through agreements with investment clubs that authorized him to trade and act on behalf of club members; received transaction-based compensation in the form of commissions; and misappropriated investor funds. *Id.* at ¶ II.B.6.

- Theodule and the Creative Capital companies charged investors a 10 percent upfront fee and a 40 percent commission on any trading profits. *Id.* at ¶ II.B.6.

- On Oct. 28, 2013, Theodule pled guilty to one count of wire fraud in violation of 18 U.S.C. §1343 in U.S. District Court, in the case *United States v. George Louis Theodule*, Case No. 9:13-CR-80141, Southern District of Florida. *Id.* at ¶ II.B.2; Plea Agreement (attached as Exhibit 2) at 1, ¶1.

- On Feb. 24, 2014, Theodule was sentenced to 12½ years in prison. OIP at ¶ II.B.2; Judgment In A Criminal Case (attached as Exhibit 3) at 2.

- The criminal conviction was based on Theodule's solicitation of investors through Creative Capital. OIP at ¶¶ II.B.1, 3, 4, and 6; Plea Agreement (Ex. 2).

- Theodule solicited investors in South Florida's Haitian American community by holding himself out as a "financial wizard" who, through proven investment strategies, could double investors' money in 30 to 90 days. OIP at ¶ II.B.4.

- Theodule formed approximately 100 investment clubs with more than 2,500 members who invested anywhere from $1,000 to $100,000. *Id.* All told, Theodule raised more than $30 million from investors in 2007 and 2008, and deposited approximately $19 million in trading accounts. *Id.* He lost most of the $19 million and used a substantial amount of investors' funds for his personal benefit and that of family and friends. *Id.*

- The facts in the Plea Agreement also gave rise to a Commission civil enforcement action in U.S. District Court. *Id.* at ¶ II.B.5. In that action, the District Court entered a Final Judgment that included disgorgement of more than $5 million and a $250,000 civil penalty. *Id.*

- The Commission's civil action also was based in part on Theodule's activities of: soliciting investor contributions; touting his stock trading strategy; making investment decisions on behalf of clients; controlling clients' trading accounts through agreements with investment clubs that authorized him to trade and act on behalf of club members; receiving transaction-based compensation in the form of commissions; and misappropriating investor funds. *Id.* at ¶ II.B.6.

2. Additional Evidence

In addition to the OIP allegations and the exhibits listed above, the Division submits the following additional evidence showing we are entitled to the industry bar we request:

- The Commission's Emergency *Ex Parte* Motion For Temporary Restraining Order And Other Emergency Relief in the civil enforcement action ("Emergency Motion"), attached as Exhibit 4.

- Temporary Restraining Order And Other Emergency Relief in the civil case, attached as Exhibit 5.

- Order Granting Preliminary Injunction And Other Relief Against All Defendants in the civil case, attached as Exhibit 6.

- Judgment of Permanent Injunction And Other Relief As To Defendant George L. Theodule in the civil case, attached as Exhibit 7.

All of these exhibits, as well as the OIP, demonstrate both that Theodule violated Section 10(b) of the Exchange Act and Exchange Act Rule 10b-5 and that the District Court in the civil case enjoined Theodule from future violations of the statute and the rule.

As the Emergency Motion shows, Theodule solicited and raised more than $23 million from primarily Haitian-American investors in 2007 and 2008 by promising to double their money in 90 days or less through stock and options trading. Ex. 4 at 2, 6-8. He boasted to investors about Creative Capital's high rates of returns and claimed he had made millionaires out of a number of investors. *Id.* at 4. In reality, Theodule: lost more than 97 percent of the money he traded; commingled investor funds with his personal funds; misappropriated at least $3.8 million of investor funds for personal use; and used new investor money to repay earlier investors in Ponzi scheme fashion. *Id.* at 2, 6-8.

Theodule funneled a great deal of the money he raised to the Creative Capital entities through investment clubs. *Id.* at 5-6. Investors gave money to the clubs and could not withdraw it for 90 days. *Id.* The investment clubs in turn sent the money to Creative Capital for Theodule to invest. *Id.* Investors did not have meetings or participate in any way in making investment decisions. *Id.* The investment clubs received a 10 percent commission, and Theodule and his companies were to receive a commission of 40 percent of the investors' profits after 90 days. *Id.*

The allegations in the Emergency Motion led U.S. District Judge Donald Middlebrooks to issue both a temporary restraining order and a preliminary injunction against Theodule, finding the Commission had made a *prima facie* case that Theodule had violated Exchange Act Section 10(b) and Rule 10b-5, and ordering him not to violate those provisions (among other relief that included an asset freeze). Exhibits 5 and 6. Furthermore, on October 22, 2009, the District Court permanently enjoined Theodule, by consent, from violating Section 10(b) and Rule 10b-5. Exhibit 7.

3. An Industry Bar Is An Appropriate Sanction

Because the Law Judge has determined Theodule to be in default, the only question left is what sanctions are appropriate under Exchange Act Section 15(b) and Advisers Act Section 203(f).

Exchange Act Section 15(b)(6)(A) authorizes the Commission to, among other things, bar from association with any broker, dealer, investment adviser, municipal securities dealer, municipal advisor, transfer agent, or nationally recognized statistical rating organization ("NRSRO") any person, who, at the time of the misconduct was associated with or seeking to become associated with a broker or dealer, if the person has been enjoined from any action specified in Section 15(b)(4)(A)(D) or (E) of the Exchange Act, and if it is in the public interest. 15 U.S.C. §78(o)(b)(6)(A)(i); *In the Matter of Christopher A. Seeley*, AP File No. 3-15240, 2013 WL 5561106 at *13 (Oct. 9, 2013). Section 15(b)(4)(D) specifies that one of the actions giving rise to an industry bar is if the person has willfully violated any provision of the securities laws, including the Exchange Act. 15 U.S.C. §78(o)(b)(4)(D). Section 15(b)(6)(A) further allows the Commission to issue an industry bar from association against any person who has been convicted of a felony "involving the purchase or sale of a security" or arising "out of the conduct of the business of a broker, dealer . . . investment adviser . . . ." 15 U.S.C. §78(o)(b)(6)(A)(ii); 15 U.S.C. §78(o)(b)(4)(B)(i) and (ii).

Section 203(f) of the Advisers Act contains similar provisions permitting the Commission to issue an industry bar against anyone who has willfully violated a provision of the Exchange Act or been convicted of a felony involving the purchase or sale of a security or arising out of the business of a broker, dealer, or investment adviser, and who was associated with or seeking to become associated with an investment adviser.

15 U.S.C. §80(b)(3)(E) and (F).

As a threshold matter, it is well established that a person does not actually have to be associated or seeking to become associated to be subject to the provisions of Exchange Act Section 15(b)(6) and Advisers Act Section 203(f). A person may be acting as an unregistered investment adviser or engaging in broker activity without being registered and still subject to a bar. *In the Matter of George Elia*, AP File No. 3-15260, 2013 WL 2246025 at *1-2 (May 22, 2013) (issuing an industry bar against individual who acted as an unregistered investment adviser); *In the Matter of Jenny E. Coplan*, AP File No. 3-15798, 2014 WL 1713067 at *2 n.3 (May 1, 2014) (issuing industry bar against individual who was acting as an unregistered broker dealer and noting "The fact that Coplan was not associated with a registered broker-dealer during her wrongdoing does not insulate her from a bar") (citing *In the Matter of Vladislav Steven Zubkis*, AP File No. 3-11625, 2005 WL 3299148 (Dec. 2, 2005)).

Thus, there are three elements the Law Judge must determine: (A) whether Theodule meets any of the pre-requisites for a bar under Exchange Act Section 15(b)(6) and Advisers Act Section 203(f); (B) whether he was acting as an investment adviser or engaging in broker-dealer activity; and (C) whether it is in the public interest to bar him.

A. Theodule Violated Exchange Act Section 10(b) And Rule 10b-5

As noted above, both Exchange Act Section 15(b)(6) and Advisers Act Section 203(f) authorize the Law Judge to bar Theodule from the securities industry if he willfully violated a provision of the Exchange Act or was convicted of a felony involving the purchase or sale of a security. Here, both prerequisites are present. First, the District Court enjoined Theodule from violating Exchange Act Section 10(b) and Rule 10b-5, both preliminarily and permanently. Exhibits 6 and 7. The Commission's Emergency

Motion (Exhibit 4), sets forth the factual and legal basis for the injunctions, demonstrating Theodule's conduct met all the elements of a willful violation of Section 10(b) and Rule 10b-5; he: made misrepresentations and omissions; that were material; with scienter; in connection with the purchase or sale of a security; using the means or instrumentalities of interstate commerce. Exhibit 4 at 4-8 and 10-13. *See also Christopher Seeley*, 2013 WL 5561106 at *13 (District Court injunction against violations of Section 10(b), among other statutes, gave rise to industry bar sanction).

Furthermore, the Factual Proffer portion of Theodule's Plea Agreement in the criminal action makes clear the criminal conviction was based on the same set of facts as the Commission's civil action. Exhibit 2 at 8-10. The Factual Proffer, which Theodule admitted was true, demonstrates his criminal conviction was based on his misrepresentations and omissions in soliciting investments in the Creative Capital companies and his subsequent misappropriation of investor money. *Id.* Under either provision – injunction or criminal conviction – a sanction against Theodule is appropriate.

B. Theodule Was Engaged In Unregistered Broker-Dealer And Investment Adviser Activity

The next prerequisite for sanctioning Theodule under either Exchange Act Section 15(b)(6) or Advisers Act Section 203(f) is to show he was engaged in activity as a broker-dealer or investment adviser, even though he was not registered. *George Elia*, 2013 WL 2246025 at *1-2; *Jenny E. Coplan*, 2014 WL 1713067 at *2 n.3. Here Theodule has engaged in both types of activity.

Section 3(a)(4)(A) of the Exchange Act generally defines a broker as "any person engaged in the business of effecting transactions in securities for the account of others." 15 U.S.C. § 78c(a)(4)(A). Section 15(a) of the Exchange Act provides that it is

"unlawful for any broker" to "effect any transactions in, or to induce or attempt to induce the purchase or sale of, any security" unless such broker is "registered in accordance with [Section 15(b) of the Exchange Act]." 15 U.S.C. § 78o(a).

The terms "engaged in the business" and "effecting transactions" are not statutorily defined. Instead, to determine if an individual was "engaged in the business" of "effecting securities transactions," courts and the Commission examine a range of factors. These factors include, but are not limited to, whether an individual: solicited investors or promoted securities; received commissions or other transaction-based remuneration; or regularly participated in securities transactions. *See generally In the Matter of Joseph Kemprowski*, AP File No. 3-8569, 1994 WL 684628, at *2 (Dec. 8, 1994); *see also Definition of Terms in and Specific Exemptions for Banks, Savings Associations, and Savings Banks under Sections 3(a)(4) and 3(a)(5) of the Securities Exchange Act of 1934*, File No. S7-12-01, 2001 WL 1590253 at *20 & n.124 (May 11, 2001) (solicitation); *Persons Deemed Not To Be Brokers*, File No. S7-19-84, 1985 WL 634795, at *4 (June 27, 1985) (receipt of transaction-based compensation); *SEC v. Kenton Capital, Ltd.*, 69 F. Supp. 2d 1, 12-13 (D.D.C. 1998) (regularity of participation).

Under these factors, Theodule was engaged in the business of effecting securities transactions. The OIP (Exhibit 1), the Commission's Emergency Motion (Exhibit 4), and the Plea Agreement (Exhibit 2) demonstrate: (1) Theodule held himself out in the South Florida Haitian-American community as a financial wizard who, through proven investment strategies, could double investors' money; (2) held meetings with investors in which he claimed he was a highly successful investor in stock options and could use his investment strategies to make investors' profits; (3) solicited investors to invest money with Creative Capital; (4) participated in forming more than 100 investment clubs; (5)

raised at least $23 million and perhaps more than $30 million from investors; (6) controlled clients' investment accounts through the investment clubs; (7) made all the decisions of how to invest investors' money; (8) along with the Creative Capital entities charged a 10 percent up-front commission and a further commission of 40 percent of all trading profits; and (9) misappropriated at least $3.8 million in investor funds for personal use.

This is more than enough to meet the definition of broker conduct under both the statute and judicial interpretation. *SEC v. George*, 426 F.3d 786, 797 (6th Cir. 2005) (defendant's "communications with and recruitment of investors for the purchase of securities" constituted broker conduct; in addition payment by commission instead of salary constituted transaction-based compensation); *SEC v. U.S. Pension Trust Corp.*, Case No. 07-cv-22570, 2010 WL 3894082 at *20-21 (S.D. Fla. Sept. 10, 2010) (solicitation of investors violated Section 15(a)(1)); *SEC v. Art Intellect., Inc.*, Case No. 11-cv-357, 2013 WL 840048 at *20 (D. Utah, March 6, 2013) (defendants acted as broker dealers when they solicited investors to purchase investment contracts). Accordingly, the Law Judge may sanction Theodule under Exchange Act Section 15(b)(6) if it is in the public interest.

Section 202(a)(11) of the Advisers Act contains a broad definition of the term "investment adviser," as a person who, for compensation, gives advice about the value of securities or the advisability of investing or effecting transactions in securities. 15 U.S.C. § 80b-2(a)(11); *see also In the Matter of Anthony J. Benincasa,* AP File No. 3-8825, 2001 WL 99813 at *1 (Feb. 7, 2001).

For the reasons listed above, Theodule's activities meet the definition of an investment adviser. He repeatedly and regularly advised investors to invest their money

with Creative Capital so he could purportedly invest it and double their money. Accordingly, an industry bar against Theodule is appropriate under Advisers Act Section 203(f) if it is in the public interest.

C. An Industry Bar Is In The Public Interest

In determining whether an administrative sanction is in the public interest, the Commission considers the factors outlined in *Steadman v. SEC*, 603 F.2d 1126, 1140 (5th Cir. 1979): (1) the egregiousness of a respondent's actions; (2) the isolated or recurrent nature of the violations; (3) the degree of scienter involved; (4) the respondent's assurances against future violations; (5) the respondent's recognition of the wrongful nature of his conduct; and (6) the likelihood the respondent's occupation will present opportunities for future violations. *See also In the Matter of KPMG Peat Marwick, LLP,* AP File No. 3-9500, 2001 WL 47245 at *23-26 (Jan. 19, 2001), *aff'd sub nom KPMG v. SEC*, 289 F.3d 109 (D.C. Cir. 2002); *Peak Wealth Opportunities,* 2013 WL 812635 at *9-10; *Christopher Seeley*, 2013 WL 5561106 at *14. No one factor controls. *SEC v. Fehn*, 97 F.3d 1276, 1295-96 (9th Cir. 1996).

Here, at least five of the six factors weigh in favor of an industry bar. First, Theodule's actions were egregious. He preyed on unsophisticated investors in the Haitian-American community in South Florida, telling them he had a proven investment strategy that could double their money in 30 to 90 days. He claimed to be a successful stock options trader, and to give the appearance of success, he used new investor money to pay earlier investors their purported profits. He pressured one investor to liquidate the equity in her home to invest, and told all investors their money was secure with him. OIP (Exhibit 1); Emergency Motion (Exhibit 4); Plea Agreement (Exhibit 2). In reality none of the claims were true, and Theodule either quickly lost most of the $30 million he

persuaded investors to give him, or misappropriated millions of it for his own use. In short, Theodule ran an egregious scam.

Second, Theodule's actions were recurrent, continuing for the better part of two years, during which time he raised money from hundreds of investors. Third, Theodule's level of scienter was extremely high. He knew he did not have any proven options trading strategy or history of earning anyone money. Yet he told his web of lies, commingled investor funds, stole some, and lost the rest. To perpetuate his scheme, he paid off earlier investors with new investor money in Ponzi scheme fashion.

Fourth, Theodule has not appeared or defended in this case, and so neither here nor in the civil or criminal cases has he given assurances he will avoid future violations of the securities laws. The fifth factor – Theodule's recognition of his wrongful conduct – is the one factor that may not weigh in favor of a bar. Theodule has not appeared in this case, and at first he contested the Commission's civil case. But he eventually consented to an injunction in that case, and pleaded guilty in the criminal case, giving at least some indication he understands his conduct was wrong. Sixth and finally, although Theodule is in prison now, he will eventually get out, and unless he is barred from the securities industry he will have the chance to reoffend.

Finally, it is in the public interest to collaterally bar Theodule from all association with the securities industry. The Dodd-Frank Wall Street Reform and Consumer Protection Act, enacted on July 21, 2010, added collateral bars as sanctions under Exchange Act Section 15(b)(6) and Advisers Act Section 203(f). The Commission has held that Dodd-Frank's collateral bars "are prospective remedies whose purpose is to protect the investing public from future harm," and therefore applying the bars to address pre-Dodd-Frank conduct is "not impermissibly retroactive." *In the Matter of John W.*

Lawton, AP File No. 3-14162, 2012 WL 6208750 at *10 (Dec. 13, 2012). Accordingly, the Law Judge should bar Theodule from the securities industry, even though his conduct occurred in 2007 and 2008, before the enactment of Dodd-Frank.

IV. Conclusion

For all the reasons discussed above, the Division asks the Law Judge to sanction Theodule by barring him from association with any broker, dealer, investment adviser, municipal securities dealer, municipal advisor, transfer agent or NRSRO.

Respectfully submitted,

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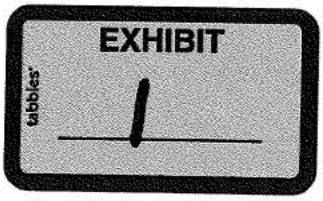


UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 71694 / March 12, 2014

INVESTMENT ADVISERS ACT OF 1940
Release No. 3790 / March 12, 2014

ADMINISTRATIVE PROCEEDING
File No. 3-15784

In the Matter of **GEORGE LOUIS THEODULE,** **Respondent.**	**ORDER INSTITUTING ADMINISTRATIVE PROCEEDINGS PURSUANT TO SECTION 15(b) OF THE SECURITIES EXCHANGE ACT OF 1934 AND SECTION 203(f) OF THE INVESTMENT ADVISERS ACT OF 1940 AND NOTICE OF HEARING**

I.

The Securities and Exchange Commission ("Commission") deems it appropriate and in the public interest that public administrative proceedings be, and hereby are, instituted pursuant to Section 15(b) of the Securities Exchange Act of 1934 ("Exchange Act") and Section 203(f) of the Investment Advisers Act of 1940 ("Advisers Act") against George Louis Theodule ("Respondent" or "Theodule").

II.

After an investigation, the Division of Enforcement alleges that:

A. RESPONDENT

1. From July 2007 through December 2008, Theodule was the president and sole officer and director of Creative Capital Consortium, LLC, and also managed A Creative Capital Concept$, LLC (collectively "Creative Capital"), two now defunct entities he used to raise investor funds. Neither entity was ever registered with the Commission. Theodule, 52, a former resident of Loganville, Georgia, is currently incarcerated at the Miami Federal Detention Center in Miami, Florida.

B. ENTRY OF THE RESPONDENT'S CRIMINAL CONVICTION

2. On October 28, 2013, Theodule pleaded guilty to one count of Wire Fraud in violation of Title 18 United States Code, Section 1343 before the United States District Court for the Southern District of Florida, in United States v. George Louis Theodule, Case No. 9:13-CR-80141. On February 24, 2014, the Court sentenced Theodule to 12.5 years in prison and three years of supervised release, with restitution to be set at a later date.

3. The count of the criminal indictment to which Theodule pleaded guilty alleged, among other things, that beginning in about July 2007 and continuing through December 2008 Theodule knowingly and willfully devised and intended to devise a scheme and artifice to defraud others and to obtain money and property by means of materially false and fraudulent pretenses, representations and promises, and that he knowingly transmitted and caused to be transmitted wire transfers of funds in furtherance of a scheme to defraud.

4. In his plea, Theodule admitted that:

- In July 2007, he began falsely holding himself out as a "financial wizard" in the South Florida Haitian community, who, through proven investment strategies, could double investors' principal in 30 to 90 days. He formed approximately 100 investment clubs with more than 2500 members who invested from $1,000 to $100,000.

- From 2007 to 2008, Theodule raised more than $30 million from investors, and deposited approximately $19 million in trading accounts. None of these accounts were profitable, and Theodule quickly lost the funds invested and used a substantial amount of investors' funds for his personal benefit and the benefit of family members and friends.

- Despite these losses, Theodule continued to recruit new investors through late 2008 while promising he would earn substantial returns. He also assured investors that their money was safe and earning profits while he operated a Ponzi scheme, eventually running out of funds to pay returns, leading to the scheme's collapse.

5. The facts in the plea agreement also formed the basis of a Commission 2008 civil action against Theodule and his entities entitled Securities and Exchange Commission v. Creative Capital, et al., Civil Action No. 08-CIV-81565, in the United States District Court for the Southern District of Florida. On March 26, 2010, the Court entered a final Judgment of Disgorgement, Prejudgment Interest and Civil Penalty against Theodule ordering him to pay disgorgement in the amount of $5,099,512, prejudgment interest of $202,638 and a civil penalty of $250,000.

6. During the time of the scheme giving rise to the criminal and civil actions, Theodule, as sole officer and president of Creative Capital, solicited investor contributions, touted his stock trading strategy, made investment decisions on behalf of clients, controlled clients' trading accounts through agreements with the investment clubs that authorized him to trade in securities and act on behalf of each member of the clubs, transacted business with independent

investment clubs, received transaction-based compensation in the form of commissions, and he also misappropriated investor funds. Theodule and his companies charged investors a 10% upfront fee and a 40% commission on any profits obtained.

III.

In view of Respondent's criminal conviction, the Commission deems it necessary and appropriate in the public interest that public administrative proceedings be instituted to determine:

A. Whether the allegations set forth in Section II hereof are true and, in connection therewith, to afford Respondent an opportunity to establish any defenses to such allegations;

B. What, if any, remedial action is appropriate in the public interest against Respondent pursuant to Section 15(b) of the Exchange Act; and,

C. What, if any, remedial action is appropriate in the public interest against Respondent pursuant to Section 203(f) of the Advisers Act.

IV.

IT IS ORDERED that a public hearing for the purpose of taking evidence on the questions set forth in Section III hereof shall be convened at a time and place to be fixed, and before an Administrative Law Judge to be designated by further order as provided by Rule 110 of the Commission's Rules of Practice, 17 C.F.R. § 201.110.

IT IS FURTHER ORDERED that Respondent shall file an Answer to the allegations contained in this Order within twenty (20) days after service of this Order, as provided by Rule 220 of the Commission's Rules of Practice, 17 C.F.R. § 201.220.

If Respondent fails to file the directed answer, or fails to appear at a hearing after being duly notified, the Respondent may be deemed in default and the proceedings may be determined against him upon consideration of this Order, the allegations of which may be deemed to be true as provided by Rules 155(a), 220(f), 221(f) and 310 of the Commission's Rules of Practice, 17 C.F.R. §§ 201.155(a), 201.220(f), 201.221(f) and 201.310.

This Order shall be served forthwith upon Respondent personally or by certified mail.

IT IS FURTHER ORDERED that the Administrative Law Judge shall issue an initial decision no later than 210 days from the date of service of this Order, pursuant to Rule 360(a)(2) of the Commission's Rules of Practice.

In the absence of an appropriate waiver, no officer or employee of the Commission engaged in the performance of investigative or prosecuting functions in this or any factually related proceeding will be permitted to participate or advise in the decision of this matter, except as witness or counsel in proceedings held pursuant to notice. Since this proceeding is not "rule

making" within the meaning of Section 551 of the Administrative Procedure Act, it is not deemed subject to the provisions of Section 553 delaying the effective date of any final Commission action.

By the Commission.

Jill M. Peterson
Assistant Secretary

EXHIBIT 2

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

Case No. 13-80141-CR-MARRA/BRANNON

UNITED STATES OF AMERICA

vs.

GEORGE LOUIS THEODULE,

Defendant.
_____/

PLEA AGREEMENT

The United States Attorney's Office for the Southern District of Florida ("this Office") and GEORGE LOUIS THEODULE (hereinafter referred to as the "defendant") enter into the following agreement:

1. The defendant agrees to plead guilty to Count 1 of the indictment, which count charges the defendant with Wire Fraud, in violation of Title 18, United States Code, Sections 1343 and 2.

2. This Office agrees to seek dismissal of the remaining counts of the indictment after sentencing.

3. The defendant is aware that the sentence will be imposed by the Court after considering the advisory Federal Sentencing Guidelines and Policy Statements (hereinafter "Sentencing Guidelines"). The defendant acknowledges and understands that the Court will compute an advisory sentence under the Sentencing Guidelines and that the applicable guidelines will be determined by the Court relying in part on the results of a pre-sentence investigation by the Court's probation office, which investigation will commence after the guilty

plea has been entered. The defendant is also aware that, under certain circumstances, the Court may depart from the advisory sentencing guideline range that it has computed, and may raise or lower that advisory sentence under the Sentencing Guidelines. The defendant is further aware and understands that the Court is required to consider the advisory guideline range determined under the Sentencing Guidelines, but is not bound to impose a sentence within that advisory range; the Court is permitted to tailor the ultimate sentence in light of other statutory concerns, and such sentence may be either more severe or less severe than the Sentencing Guidelines' advisory range. Knowing these facts, the defendant understands and acknowledges that the Court has the authority to impose any sentence within and up to the statutory maximum authorized by law for the offense identified in paragraph 1 and that the defendant may not withdraw the plea solely as a result of the sentence imposed.

4. The defendant also understands and acknowledges that the Court may impose a statutory maximum term of imprisonment of up to 20 years, followed by a term of supervised release of up to 5 years. In addition to a term of imprisonment and supervised release, the Court may impose a fine of up to $250,000 or twice the gross gain or loss from the offense, whichever is greater, and shall order restitution.

5. The defendant further understand and acknowledges that, in addition to any sentence imposed under paragraph 4 of this agreement, a special assessment in the amount of $100 will be imposed on the defendant. The defendant agrees that any special assessment imposed shall be paid at the time of sentencing. If a defendant is financially unable to pay the special assessment, the defendant agrees to present evidence to this Office and the Court at the time of sentencing as to the reasons for the defendant's failure to pay.

6. This Office reserves the right to inform the Court and the probation office of all facts pertinent to the sentencing process, including all relevant information concerning the offenses omitted, whether charged or not, as well as concerning the defendant and the defendant's background. Subject only to the express terms of any agreed-upon sentencing recommendations contained in this agreement, this Office further reserves the right to make any recommendation as to the quality and quantity of punishment.

7. This Office agrees that it will recommend at sentencing that the Court reduce by two levels the sentencing guideline level applicable to the defendant's offense, pursuant to Section 3E1.1(a) of the Sentencing Guidelines, based upon the defendant's recognition and affirmative and timely acceptance of personal responsibility. If at the time of sentencing the defendant's offense level is determined to be 16 or greater, this Office will file a motion requesting an additional one level decrease pursuant to Section 3E1.1(b) of the Sentencing Guidelines, stating that the defendant has assisted authorities in the investigation or prosecution of the defendant's own misconduct by timely notifying authorities of the defendant's intention to enter a plea of guilty, thereby permitting the government to avoid preparing for trial and permitting the government and the Court to allocate their resources efficiently. This Office, however, will not be required to make these recommendations if the defendant: (1) fails or refuses to make a full, accurate and complete disclosure to the probation office of the circumstances surrounding the relevant offense conduct; (2) is found to have misrepresented facts to the government prior to entering into this plea agreement; or (3) commits any misconduct after entering into this plea agreement, including but not limited to committing a state or federal offense, violating any term of release, or making false statements or misrepresentations to any governmental entity or

official.

8. This Office and the defendant agree that, although not binding on the probation office or the Court, they will jointly recommend that the Court make the following findings and conclusions as to the sentence to be imposed:

(1). Loss: That the relevant amount of actual, probable or intended loss under Section 2B1.1(b)(1) of the Sentencing Guidelines resulting from the offense committed in this case is more than $7,000,000 and less than $20,000,000.

(2) Victims: That the offense involved 250 or more victims, pursuant to Section 2B1.1(b)(2)(C) of the Sentencing Guidelines.

(3). Sophisticated Means: That the offense involved sophisticated means pursuant to Section 2B1.1(b)(10) of the Sentencing Guidelines.

(4) Adjusted Offense Level: That the applicable adjusted offense level under all of the circumstances of the offense committed by the defendant is Level 35.

9. The defendant unequivocally admits that the statements in the signed FACTUAL PROFFER regarding his role in the offense are true, complete, and correct, and further acknowledges that the Government could prove these facts beyond a reasonable doubt. The parties agree that, if, after the defendant has entered into this agreement, he decides not to plead guilty or, after pleading guilty, attempts to withdraw such plea, any self-incriminating statements he has made or makes in the future to any law enforcement personnel at any time, including the FACTUAL PROFFER, can be used against him for any purpose, including as evidence in the government's case-in-chief against him in any trial. In that regard, the defendant specifically waives any rights he may otherwise have under Federal Rule of Evidence 410 and Rule 11 of the

Federal Rules of Criminal Procedure. The parties agree that, as long as the defendant's statements are true, complete, and correct, any statements made are subject to the protections offered in USSG, Section 1B1.8 and cannot be used against him for sentencing purposes other than as contemplated by USSG, Section 1B1.8.

10. The defendant is aware that Title 18, United States Code, Section 3742 and Title 28, United States Code, Section 1291 afford the defendant the right to appeal the sentence imposed in this case. Acknowledging this, in exchange for the undertakings made by the United States in this plea agreement, the defendant hereby waives all rights conferred by Sections 3742 and 1291 to appeal any sentence imposed, including any restitution order, or to appeal the manner in which the sentence was imposed, unless the sentence exceeds the maximum permitted by statute or is the result of an upward departure and/or an upward variance from the advisory guideline range that the Court establishes at sentencing. The defendant further understands that nothing in this agreement shall affect the government's right and/or duty to appeal as set forth in Title 18, United States Code, Section 3742(b) and Title 28, United States Code, Section 1291. However, if the United States appeals the defendant's sentence pursuant to Sections 3742(b) and 1291, the defendant shall be released from the above waiver of appellate rights. By signing this agreement, the defendant acknowledges that the defendant has discussed the appeal waiver set forth in this agreement with the defendant's attorney.

11. Defendant recognizes that pleading guilty may have consequences with respect to the defendant's immigration status if the defendant is not a citizen of the United States. Under federal law, a broad range of crimes are removable offenses. Removal and other immigration consequences are the subject of a separate proceeding, however, and defendant understands that

no one, including the defendant's attorney or the Court, can predict to a certainty the effect of the defendant's conviction on the defendant's immigration status. Defendant nevertheless affirms that the defendant wants to plead guilty regardless of any immigration consequences that the defendant's plea may entail, even if the consequence is the defendant's removal from the United States.

12. The defendant is aware that the sentence has not yet been determined by the Court. The defendant also is aware that any estimate of the probable sentencing range or sentence that the defendant may receive, whether that estimate comes from the defendant's attorney, this Office, or the probation office, is a prediction, not a promise, and is not binding on this Office, the probation office or the Court. The defendant understands and acknowledges, as previously acknowledged in paragraph 3 above, that the defendant may not withdraw his plea based upon the Court's decision not to accept a sentencing recommendation made by the defendant, this Office, or a recommendation made jointly by the defendant and this Office.

13. This is the entire agreement and understanding between this Office and the defendant. There are no other agreements, promises, representations, or understandings.

WIFREDO A. FERRER
UNITED STATES ATTORNEY

Date: 10/28/13

By: _____
ROGER H. STEFIN
ASSISTANT UNITED STATES ATTORNEY

Date: 10/28/13

By: _____
CAROLYN BELL
ASSISTANT UNITED STATES ATTORNEY

Date: 10/22/13

PETER BIRCH
ATTORNEY FOR DEFENDANT

Date: 10/22/13

GEORGE LOUIS THEODULE
DEFENDANT

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

Case No. 13-80141-CR-MARRA/BRANNON

UNITED STATES OF AMERICA

vs.

GEORGE L. THEODULE,

Defendant.
_____/

FACTUAL PROFFER

The United States Attorney's Office for the Southern District of Florida ("this Office") and George L. Theodule (hereinafter referred to as the "defendant") stipulate and agree that, if this case were to go to trial, the United States would make out a prima facie case of guilt against the defendant as to Count I of the indictment (wire fraud), based upon the following uncontested facts:

Beginning in or about July 2007, the defendant began holding himself out in the South Florida Haitian community as a financial wizard, who, through proven investment strategies, was able to double the money of people who invested with him in a very short period of time. In a series of meetings held with potential investors in Wellington, Florida, and elsewhere, the defendant claimed that he was a highly successful investor in stock options, among other things and could use his proven investment strategies to enrich investors. None of this was true.

The defendant proceeded to form companies in Florida, namely A Creative Capital Concepts, LLC and Creative Capital Consortium LLC, set up offices in Lake Worth, Florida, and opened bank accounts for these entities, to serve as the repository of investor monies. Over time,

the defendant formed, and induced others to form, investment clubs, where club members would remit money that would be furnished to the defendant for investment purposes. Between January and August 2008, approximately 100 investment clubs were formed, consisting of more than 2500 investors, who gave from $1000 to $100,000 or more, based upon the representations of the defendant that the investment would be doubled over a period of from 30 to 90 days. These investment clubs, mostly located in the Southern District of Florida, but also in New York, New Jersey and other states, included Alpha Investment Strategies, Brother's Investment Club, Creative Capital Investment, The Eagles Private Investment Club, LLC, East Broward Private Investment Club, LLC, GNL Capital. Investment Group, LLC, Innovative Investment Group, Monte Cristo Investment Club, Progressive Capital Concepts, Inc, United Investment Club, LLC, United Partners Club, LLLP and the Wealth Builders Circle, LLC. Money from these investment clubs would often be forwarded to accounts controlled by the defendant via interstate wire transfers.

Between July 2007 and December 2008, the amount of money received from investors exceeded $30 million. Meanwhile, although the defendant did deposit approximately $19 million into trading accounts – primarily with an internet trading company called Options Xpress, none of these accounts were profitable- and, in fact, the defendant fairly quickly lost all the money invested. Further, the defendant utilized a substantial amount of investor money for his personal benefit and the benefit of family members and friends.

Nevertheless, through late 2008, the defendant continued to recruit new investors and investment clubs under the false pretext that he would earn substantial returns for his investors. The defendant also continually assured investors that their money was safe and was indeed earning

profits. With respect to existing investors, the defendant initially honored requests from investors to cash out their "profits," which were represented to have "doubled" as a result of the investment program. In truth and in fact, there were no investor profits. Rather the funds used to pay older investors came from the funds of new investors - a classic Ponzi scheme. Ultimately, the defendant was unable to continue paying out returns to investors, and the scheme collapsed. As a result, thousands of investors lost millions of dollars. The parties stipulate that victim losses exceed $7 million.

With respect to Count 1 of the indictment, on or about July 23, 2008, Alpha Investment Strategies, an investment club located in Davie, Florida, wire transferred $33,300.27 from its account at Washington Mutual Bank to an account controlled by the defendant at the Bank of America. The transfer was made through a Federal Reserve Bank located in New Jersey, and was made for the purpose of investing the funds in the defendant's trading programs.

WIFREDO A. FERRER
UNITED STATES ATTORNEY

Date: 10/28/13

By: _____
ROGER H. STEFIN
ASSISTANT UNITED STATES ATTORNEY

Date: 10/28/13

By: _____
CAROLYN BELL
ASSISTANT UNITED STATES ATTORNEY

Date: 10/14/13

_____
PETER BIRCH
ATTORNEY FOR DEFENDANT

Date: 10/14/13

_____
GEORGE L. THEODULE
DEFENDANT

EXHIBIT 3

United States District Court
Southern District of Florida
WEST PALM BEACH DIVISION

UNITED STATES OF AMERICA

v.

GEORGE LOUIS THEODULE

JUDGMENT IN A CRIMINAL CASE

Case Number - 9:13-80141-CR-MARRA-1

USM Number: 03856-104

Counsel For Defendant: Peter Birch, AFPD
Counsel For The United States: Roger Stefin, AUSA
Court Reporter: Stephen Franklin

The defendant pleaded guilty to Count One of the Indictment on October 28, 2013. The defendant is adjudicated guilty of the following offense:

TITLE/SECTION NUMBER	NATURE OF OFFENSE	OFFENSE ENDED	COUNT
18 U.S.C. §§ 1343 and 2	Wire Fraud	July 23, 2008	One

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

Remaining counts are dismissed on the motion of the United States.

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

Date of Imposition of Sentence:
2/24/14

KENNETH A. MARRA
United States District Judge

February 26, 2014

Certified to be a true and correct copy of the document on file
Steven M. Larimore, Clerk,
U.S. District Court
Southern District of Florida
By _____ Deputy Clerk
Date 4/14/14

DEFENDANT: GEORGE LOUIS THEODULE
CASE NUMBER: 9:13-80141-CR-MARRA-1

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a term of **150 months** as to Count One of the Indictment.

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

The defendant be designated to FPC - Pensacola, Florida.

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

RETURN

I have executed this judgment as follows:

_____

_____

_____

_____

Defendant delivered on _____ to _____

at _____, with a certified copy of this judgment.

_____
UNITED STATES MARSHAL

By:_____
Deputy U.S. Marshal

DEFENDANT: GEORGE LOUIS THEODULE
CASE NUMBER: 9:13-80141-CR-MARRA-1

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of **Three (3) years.**

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

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

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

The defendant shall not possess a firearm, ammunition, destructive device, or any other dangerous weapon.

The defendant shall cooperate in the collection of DNA as directed by the probation officer.

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

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

STANDARD CONDITIONS OF SUPERVISION

1. The defendant shall not leave the judicial district without the permission of the court or probation officer;
2. The defendant shall report to the probation officer and shall submit a truthful and complete written report within the first fifteen days of each month;
3. The defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
4. The defendant shall support his or her dependents and meet other family responsibilities;
5. The defendant shall work regularly at a lawful occupation, unless excused by the probation officer for schooling, training, or other acceptable reasons;
6. The defendant shall notify the probation officer **at least ten (10) days prior** to any change in residence or employment;
7. The defendant shall refrain from the excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician;
8. The defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
9. The defendant shall not associate with any persons engaged in criminal activity and shall not associate with any person convicted of a felony, unless granted permission to do so by the probation officer;
10. The defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view by the probation officer;
11. The defendant shall notify the probation officer within **seventy-two (72) hours** of being arrested or questioned by a law enforcement officer;
12. The defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court; and
13. As directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.

DEFENDANT: GEORGE LOUIS THEODULE
CASE NUMBER: 9:13-80141-CR-MARRA-1

SPECIAL CONDITIONS OF SUPERVISION

The defendant shall also comply with the following additional conditions of supervised release:

Financial Disclosure Requirement - The defendant shall provide complete access to financial information, including disclosure of all business and personal finances, to the U.S. Probation Officer.

No New Debt Restriction - The defendant shall not apply for, solicit or incur any further debt, included but not limited to loans, lines of credit or credit card charges, either as a principal or cosigner, as an individual or through any corporate entity, without first obtaining permission from the United States Probation Officer.

Related Concern Restriction - The defendant shall not own, operate, act as a consultant, be employed in, or participate in any manner, in any related concern during the period of supervision.

Self-Employment Restriction - The defendant shall obtain prior written approval from the Court before entering into any self-employment.

DEFENDANT: GEORGE LOUIS THEODULE
CASE NUMBER: 9:13-80141-CR-MARRA-1

CRIMINAL MONETARY PENALTIES

The defendant must pay the total criminal monetary penalties under the schedule of payments on the Schedule of Payments sheet.

Total Assessment	Total Fine	Total Restitution
$100.00	**$**	**$to be determined**

The determination of restitution is deferred until May 9, 2014. An *Amended Judgment in a Criminal Case (AO 245C)* will be entered after such a determination.

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

DEFENDANT: GEORGE LOUIS THEODULE
CASE NUMBER: 9:13-80141-CR-MARRA-1

SCHEDULE OF PAYMENTS

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

A. Lump sum payment of **$100.00** due immediately.

Unless the court has expressly ordered otherwise, if this judgment imposes imprisonment, payment of criminal monetary penalties is due during imprisonment. All criminal monetary penalties, except those payments made through the Federal Bureau of Prisons' Inmate Financial Responsibility Program, are made to the clerk of the court.

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

The assessment/fine/restitution is payable to the CLERK, UNITED STATES COURTS and is to be addressed to:

U.S. CLERK'S OFFICE
ATTN: FINANCIAL SECTION
400 NORTH MIAMI AVENUE, ROOM 8N09
MIAMI, FLORIDA 33128-7716

The assessment/fine/restitution is payable immediately. The U.S. Bureau of Prisons, U.S. Probation Office and the U.S. Attorney's Office are responsible for the enforcement of this order.

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

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO.
08-81565-CIV-HURLEY/HOPKINS

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

CREATIVE CAPITAL CONSORTIUM, LLC,
A CREATIVE CAPITAL CONCEPT$, LLC, and
GEORGE L. THEODULE,

Defendants.
_____/

PLAINTIFF SECURITIES AND EXCHANGE COMMISSION'S EMERGENCY *EX PARTE* MOTION FOR TEMPORARY RESTRAINING ORDER AND OTHER EMERGENCY RELIEF AND MEMORANDUM OF LAW IN SUPPORT

Pursuant to Rule 65 of the Federal Rules of Civil Procedure, Plaintiff Securities and Exchange Commission moves this Court *ex parte* for the following emergency relief to prevent Defendants Creative Capital Consortium, LLC ("Consortium"), A Creative Capital Concept$, LLC ("Concept$") (collectively "Creative Capital" or "the Companies"), and George L. Theodule ("Theodule") from continuing to defraud investors:

1) an Order to Show Cause Why a Preliminary Injunction Should Not be Granted;

2) a Temporary Restraining Order;

3) an Order Freezing the Assets of the Defendants;

4) an Order Requiring Sworn Accountings;

5) an Order Prohibiting Destruction of Documents;

6) an Order Expediting Discovery;

7) a Repatriation Order; and

8) an Order Requiring Theodule to Surrender his Passport.

The grounds for this Motion are fully set forth in the accompanying Memorandum of Law. A proposed Order is also attached.

MEMORANDUM OF LAW

I. INTRODUCTION

From at least November 2007 to the present, Theodule, directly and through the Creative Capital, has raised at least $23.4 million from thousands of investors in an ongoing fraud and Ponzi scheme targeting mostly Haitian and Haitian-American investors nationwide. Theodule solicits investments for Creative Capital primarily during in-person presentations where he guarantees prospective investors a 100% return on their investment within 90 days based on his successful trading of stocks and options.

In reality, Theodule has lost at least $18 million trading stocks and options over the last year. In addition, Creative Capital merely repaid earlier investors with approximately $15.2 million collected from new investors in typical Ponzi scheme fashion. Finally, Theodule has commingled investor funds with his personal funds and misappropriated at least $3.8 million for himself and his family members.

Theodule recently relocated to a suburb of Atlanta, Georgia and Creative Capital appears to have closed it South Florida offices. However, as recent as last week, the Defendants continued to solicit new investors and repeated the same false claims about Theodule's trading prowess and guaranteed investment returns even though the Defendants have failed to return existing investors' funds for several months. The Defendants' actions demonstrate they will continue to perpetrate a fraud on the investing public and jeopardize current investor funds unless this Court immediately enjoins them, freezes the Defendants' assets, and appoints a Receiver to determine the extent of the fraud and the damage to investors.

II. DEFENDANTS

Concept$ is an inactive Florida limited liability company organized in November 2007. [Concept$ Certified Corporate Record attached as Exhibit 1] Theodule is Concept$'s manager, along with two other individuals. [Id.] Concept$ was the initial entity Theodule used to raise funds from investors until he formed Consortium. [Declaration of Kathleen Strandell, attached as Exhibit Ex. 2 at ¶¶4-5; Testimony Transcript of Berthrum Brewster, attached as Exhibit 3 at pp. 33:22-34:22; Declaration of William P. Sabarese, attached as Exhibit Ex. 4 at ¶¶3-4, 8-10 and Exhibits A, B and C attached thereto]

Consortium is a Florida limited liability company organized in January 2008 with its principal place of business in Lake Worth, Florida. [Consortium Certified Corporate Record attached as Exhibit 5] Consortium became the primary entity through which Theodule raised investor funds and transacted business with investment clubs. [Ex. 2 at ¶¶4-5; Ex. 3 at pp. 33:22-34:22; Declaration of Evelyn Metellus, attached as Exhibit 6 at ¶¶2-3; 8, 11]

Theodule currently resides in Loganville, Georgia, where he relocated from Wellington, Florida in September 2008. [Lexis/Nexis Search Record of George L. Theodule addresses attached as Exhibit 7; Ex. 3 at p. 123:11-16] He is the managing member of Concept$, the sole member and manager of Consortium, and solicited investors for the Companies. [Ex. 4 at ¶¶3-9; Ex. 5; Ex. 6 at ¶¶2-6, 8-10; Declaration of Collin Whitehall, attached as Exhibit 8 at ¶¶3-6; Declaration of Neptime Dieujuste, attached as Exhibit 9 at ¶21 and Exhibit A attached hereto at §2.1]

III. FACTS

A. Overview of the Scheme

The Defendants have engaged in a fraudulent Ponzi scheme targeting the United States Haitian community since at least November 2007. [Ex. 3 at pp. 57:5-58:3; Ex. 4 at ¶14; Ex. 9 at ¶4] Theodule ingratiates himself with investors by claiming he recently decided to offer his investment expertise to help build wealth in the Haitian community. [Ex. 3 at pp. 49:13-15, 81:8-19, 101:11-20, 172:3-173:5; Declaration of Carola Timothee, attached as Exhibit 10 at ¶7] He also tells investors he uses part of his trading profits to fund start-up businesses in the Haitian community, as well as business projects in Haiti and Sierra Leone. [Ex. 3 at pp. 49:16-17, 81:8-19, 101:11-20, 172:3-173:5]

The Defendants primarily attract investors through word-of-mouth, and Theodule makes his representations during face-to-face meetings in which he touts his ability to double investor funds in just 90 days. [Ex. 3 at pp. 52:4-24, 62:17-64:18; Ex. 4 at ¶¶3-6; Ex. 6 at ¶¶2-5; Ex. 9 at ¶¶5-6] Theodule typically depicts his investment plan and incredible profits trading stocks and options on dry erase boards or flip charts. [Ex. 3 at pp. 61:14-23, 62:11-16] Theodule also routinely boasts to investors about Creative Capital's high rates of return, and stresses the need to begin investing as soon as possible. [Ex. 6 at ¶¶3-5, 7-8] He told one investor he had made millionaires out of a significant number of people in the time it had taken her to decide to invest, and pressured her to liquidate the equity in her home to invest with him. [Id. at ¶¶3, 7, 13-15]

The Defendants' presentations also emphasize the safety and security of investing with them. [Ex. 4 at ¶5; Ex. 6 at ¶¶4, 6, 9-10; Ex. 8 at ¶5] They guarantee investors 100% returns with no risk, and claim to invest in the stocks and options of well-known companies such as Google, John Deere, Monsanto, Best Buy, GameStop, and others. [Ex. 3 at p. 51:3-6; Ex. 4 at ¶5; Ex. 6 at

¶¶4, 6, 9; Ex. 8 at ¶¶3, 5] Since the commencement of the investment scheme, the Defendants have raised more than $23.4 million from thousands of investors nationwide. [Ex. 2 at ¶7]

B. Investor Funds Are Also Raised Through a Network of Investment Clubs

Theodule has raised a substantial portion of funds directly from investors. [Id.] However, to add to investors' sense of security, Theodule directs prospective investors to form "investment clubs," which a purported self-regulatory agency, Smart Investment Management Services, LLC ("SIMS"), helps the investors form. [Ex. 3 at pp. 36:1-42:13; Ex. 8 at ¶¶7-13] This entity also supposedly protects investors through independent verification of their deposits. [Id.] In reality, SIMS is a private company run by a former Creative Capital employee and not a regulatory entity. [Ex. 2 at ¶8(c) and Exhibit C attached thereto; Ex. 3 at pp. 36:21-38:20, 41:11-44:20]

The investment clubs pool investor funds and send them to Creative Capital for a 90-day period, during which Theodule purportedly trades stocks and options on behalf of the investment club members. [Ex. 3 at pp. 49:18-51:2, 66:16-67:23; Ex. 6 at ¶¶11, 15; Ex. 8 at ¶7; Ex. 10 at ¶4] Unlike a real investment club, the members do not participate in making investment decisions, rarely have club meetings, and deposit funds exclusively with the Defendants. [Ex. 3 at pp. 160:20-161:7, 162:6-163:20; Ex. 4 at ¶10] Thus, the investment clubs serve principally as vehicles to funnel funds to Theodule and Creative Capital. [Ex. 3 at pp. 67:16-67:23, 82:1-87:25 and Exhibit 4 attached thereto, 90:5-91:2; Ex. 8 at ¶¶7-14; Ex. 10 at ¶¶2-5, 12-21 and Exhibits A, B, and C attached thereto]

The investment clubs typically require a minimum $1,000 investment per investor, which the investor may not withdrawal for the 90-day investment period. [Ex. 4 at ¶ 8 and Exhibit B attached thereto; Ex. 6 at ¶17; Ex. 8 at ¶4; Ex. 9 at ¶¶6-7] The investment clubs deposit the investors' funds into their own bank accounts, pool the funds, and remit the money to Creative

Capital, minus a 10% club commission. [Ex. 3 at pp. 59:1-61:25] At the end of the 90-day investment period, when the Defendants have purportedly doubled the investment amount, they supposedly return the principal and profits back to the investment clubs, minus a 40% commission on the profits. [Ex. 3 at pp. 74:12-80:23 and Exhibit 3 attached thereto] Prior to distributing the proceeds back to the individual club members, the investment clubs typically charge a second 10% commission on the principal. [Ex. 3 at p. 76:1-20 and Exhibit 3 attached thereto] However, Creative Capital has not paid current investors who requested the return of their principal and supposed profits after the 90-day period, but the Defendants are still seeking to raise additional funds from existing and prospective investors. [Ex. 3 at pp. 127:20-129:1; Ex. 9 at ¶¶35-44]

C. Fraudulent Misrepresentations and Omissions

In connection with Defendants' fraudulent Ponzi scheme, they have made and continue to make numerous material misrepresentations and omissions regarding Creative Capital's business, Theodule's stock trading, and the use of investor funds. [Ex. 3 at p. 52:12-24; Ex. 4 at ¶¶6-7; Ex. 6 at ¶¶4-9; Ex. 9 at ¶¶35-44] For example, Theodule's claim of success trading stocks and options is demonstrably false. [Ex. 2 at ¶¶10-12] Of the more than $18.3 million deposited in brokerage accounts Theodule controls, he has lost more than 97% of those funds trading stocks and options. [Ex. 2 at ¶12] In fact, Theodule has consistently lost money trading in those accounts since November 2007, and has never generated net trading profits. [Ex. 2 at ¶¶8(a), 12]

However, Creative Capital hid those losses from current and prospective investors, paying principal and purported profits to existing investment clubs and individual investors of approximately $15.2 million from new investor funds. [Ex. 2 at ¶7] Additionally, Theodule claims he uses trading profits to fund new business ventures, some of which benefit the Haitian community in the United States and Haiti, and others in Sierra Leone. [Ex. 3 at pp. 49:13-15, 81:8-19, 172:3-

173:5; Ex. 10 at ¶7] In reality, there were no trading profits, and most of the funds the Defendants disbursed went to pay earlier investors their purported profits, not fund business projects. [Ex. 2 at ¶¶7, 8(b), 12]

Theodule's representations about the safety and security of investors' funds are also patently false. SIMS is not a regulatory agency, but rather a private entity that was, until recently, headed by a former Creative Capital employee. [Ex. 2 at ¶8(c)] Further, there is no evidence that SIMS has access to or otherwise verifies the deposits to ensure the safety of investor funds. To the contrary, Theodule has commingled investor funds extensively with his own personal accounts and has misappropriated at least $3.8 million. [Ex. 2 at ¶¶6-8(b)] This includes net transfers of at least $1.7 million to his personal bank accounts, cash withdrawals of more than $1.5 million and more than $600,000 for apparent personal expenses such as two luxury vehicles, credit card bills, a wedding payment, and a house down payment. [Id. at ¶¶7-8(b)] Thus, Theodule misrepresented the safety and security of the Creative Capital investments when he led investors to believe: they could withdraw their funds any time after the initial 90-day investment period; there was no risk; and SIMS verified the security of their funds.

D. The Defendants Continue to Mislead Investors and Solicit New Investors

The Defendants have been promising current investors they will receive their principal and investment returns in the near future; however, they have provided numerous excuses and reasons for the delay in disbursement of funds, including telling investors Theodule must approve all disbursements but he is traveling in Sierra Leone or the funds are held up due to bank concerns about money laundering. [Ex. 3 at pp. 151:8-156:24, 218:6-223:4; Ex. 4 at ¶¶15-16; Ex. 10 at ¶31] Despite the failure to pay current investors, the Defendants are currently soliciting investors nationwide and continuing to raise funds through several newly formed investment clubs and

entities, some of which are based in the state of Georgia, where Theodule recently relocated. [Ex. 3 at 127:2-25, 198:20-199:3; Ex. 7; Ex. 9 at ¶¶35-44] In addition, Theodule received another $300,000 into a brokerage account he controls on December 11, 2008. [Ex. 2 at ¶14] Thus, the Defendants continue to conduct their fraudulent investment scheme and place investors' funds at risk.

E. Theodule Poses a Flight Risk

Investors and at least one business associate believe Theodule started to transfer money overseas in the fall of this year in preparation to flee the country. [Ex. 3 at pp. 170:25-171:15] Since the fraud is ongoing, it is not possible for the Commission to obtain current and complete bank records to represent whether Theodule has transferred assets overseas. However, Theodule recently took an extremely short trip to Zurich, Switzerland, leaving on December 17, 2008, and returning just two days later on December 19, 2008. [U.S. Customs and Border Protection Travel History of George L. Theodule, attached as Exhibit 11] In addition, Theodule travels using a Haitian passport and has claimed he can secure diplomatic immunity from Sierra Leone. [Ex. 3 at pp.169:8-170:16; Ex. 11]

IV. LEGAL ARGUMENT

A. Standard for Obtaining a Temporary Restraining Order

Section 21(d) of the Exchange Act provides that in Commission actions the Court shall grant injunctive relief upon a proper showing. *SEC v. Unifund SAL*, 910 F.2d 1028, 1035 (2d Cir. 1990); *SEC v. Lybrand*, No. 00 Civ.1387, 2000 WL 913894 *1, *9 (S.D.N.Y. July 6, 2000); *SEC v. Unique Fin. Concepts, Inc.*, 119 F. Supp. 2d 1332, 1338 (S.D. Fla. 1998), aff'd, 196 F.3d 1195 (11th Cir. 1999). This "proper showing" has been described as "a justifiable basis for believing, derived from reasonable inquiry or other credible information, that such a state of facts probably

existed as reasonably would lead the Commission to believe that the defendants were engaged in violations of the statutes involved." *SEC v. Gen. Refractories Co.*, 400 F. Supp. 1248, 1254 (D.D.C. 1975).

The Commission is entitled to a temporary restraining order if it establishes: (1) a prima facie case showing the Defendants have violated the securities laws and (2) a reasonable likelihood they will repeat the wrong. *Unique Fin. Concepts*, 119 F. Supp. 2d at 1338; *SEC v. Management Dynamics, Inc.*, 515 F.2d 801, 807 (2d Cir. 1975). The Commission appears "not as an ordinary litigant, but as a statutory guardian charged with safeguarding the public interest in enforcing the securities laws." *Management Dynamics*, 515 F.2d at 808. Accordingly, the Commission faces a lower burden than a private litigant when seeking an injunction, and need not meet the requirements for an injunction imposed by traditional equity jurisprudence. *Hecht Co. v. Bowles*, 321 U.S. 321, 331 (1944); accord *SEC v. International Loan Network, Inc.*, 770 F. Supp. 678, 688 (D.D.C. 1991), *aff'd*, 968 F.2d 1304 (D.C. Cir. 1992). Unlike private litigants, the Commission need not demonstrate irreparable harm or the unavailability of an adequate remedy at law. *Unique Fin. Concepts*, 119 F.Supp.2d at 1338; *Lybrand*, 2000 WL 913894 at *9. Nor is it required to show a balance of equities in its favor. *Unifund SAL*, 910 F.2d at 1036; *SEC v. Musella*, 578 F. Supp. 425, 434 (S.D.N.Y. 1984).

The Commission's evidence in this case warrants entry of the requested injunctive relief on all applicable grounds. The Commission's exhibits amply demonstrate the Defendants have violated the federal securities laws and will continue to violate them if the Court does not immediately restrain and enjoin them from their fraudulent activity.

B. The Commission has Established Prima Facie Violations of the Antifraud Provisions of the Exchange Act

The Commission has met its burden of establishing a prima facie showing of violations of the securities laws as alleged in its Complaint. Section 10(b) of the Exchange Act and Rule 10b-5 prohibit fraudulent conduct in connection with the purchase or sale of securities. *United States v. Naftalin*, 441 U.S. 768, 773 (1979); *SEC v. Kirkland*, 521 F.Supp.2d 1281, 1297 (M.D. Fla. 2007). To establish a violation, the Commission must show: (1) a misrepresentation or omission (2) that is material (3) in connection with the purchase or sale of a security (4) made with scienter (5) during the use of interstate commerce. *Kirkland*, 521 F.Supp.2d at 1297.

1. The Defendants Made False Statements and Omissions

A defendant makes a false statement when he "acting alone or with others, creates a misrepresentation." *In re Enron Corp. Sec. Litig.*, 235 F. Supp. 2d 549, 588 (S.D. Tex. 2002). Additionally, Rule 10b-5 expressly makes it unlawful to "omit to state a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading." 17 C.F.R. § 240.10b-5; *In re Miva, Inc. Sec. Litig.*, 511 F. Supp. 2d 1242, 1255 (M.D. Fla. 2007) ("Courts have long recognized . . . once a company or individual begins to speak, they have an obligation to speak truthfully about all material facts."). Furthermore, Rule 10b-5 allows violations to be established against defendants who, with scienter, participate in a course of business or a "device, scheme, or artifice" that operates as a fraud on sellers or buyers of securities, even if the defendants did not make a misrepresentation or omission. *Affiliated Ute Citizens v. United States*, 406 U.S. 128, 152-53 (1972); *SEC v. Zandford*, 535 U.S. 813, 819-22 (2002) (continuous series of unauthorized sales of securities and personal retention of proceeds without client's knowledge properly viewed as a course of business that operated as a fraud in connection with the sale of securities); *Santa Fe Indus. v. Green*, 430 U.S. 462, 475-76 (1977) (Section 10(b) covers

deceptive practices and conduct).

The Defendants committed fraud within the meaning of Section 10(b) and Rule 10b-5 through several misrepresentations and omissions. Among other things, they told investors Theodule would double their money within 90 days through his stock and options trading success. The Defendants knew this representation was false because Theodule had been experiencing significant losses trading stocks and options since November 2007. The Defendants did not disclose Theodule's trading losses or that the Defendants were using new investor funds to repay previous investors. Additionally, the Defendants have not informed current and prospective investors that Theodule commingled investor funds with his personal accounts and misappropriated at least $3.8 million for his personal use. To the contrary, the Defendants have continued the fraud; assuring investors their investments were secure and earning the promised returns while the Defendants continued to solicit prospective investors with the same false claim they will double their money. Thus, the Defendants have made misrepresentations and omissions.

2. The Defendants' Misrepresentations and Omissions Were Material

Courts consider a misrepresentation or omission to be material if a reasonable investor would attach importance to it in making an investment decision. *SEC v. Carriba Air, Inc.*, 681 F.2d 1318, 1327 (11th Cir. 1982). Since one of the principal purposes of investing is to earn returns on the amount invested, falsely promising returns is a material misrepresentation. *SEC v. Lauer*, Case No. 03-80612-CIV, 2008 WL 4372896, at *20 (S.D. Fla. September 24, 2008) (citing *SEC v. Haffenden-Rimar Int'l.*, 362 F.Supp. 323, 327 (E.D. Va. 1973) (court held defendants knowingly and materially violated the antifraud provisions of the securities laws when they falsely promised returns)). Moreover, the Defendants' failure to disclose Creative Capital was not a legitimate investment venture, but a Ponzi scheme destined to crash is clearly material. *SEC v. Better Life*

Club of America, Inc., 995 F.Supp. 167, 176 (D.D.C. 1998) (where defendants enticed investors with promises of doubled money in 60 or 90 days and never revealed to potential investors that the investment was nothing more than a Ponzi scheme, "the entire solicitation process was itself a broad misrepresentation on the grandest scale"). Additionally, a reasonable investor would also consider it important Theodule commingled investor funds with his personal accounts and misappropriated investor funds for his personal use. Accordingly, the Defendants' misrepresentations and omissions were material.

3. The "In Connection With" Requirement

The Commission must show the Defendants' fraudulent conduct occurred in connection with the purchase or sale of securities. The Supreme Court has held the federal courts should broadly interpret this "in connection with" requirement to effectuate the remedial purpose of the federal securities laws. *Zandford*, 535 U.S. at 819; *SEC v. Hasho,* 784 F.Supp. 1059, 1106 (S.D.N.Y. 1992) (citing *Superintendent of Insurance v. Banker's Life and Casualty Co.,* 404 U.S. 6, 12 (1971)). "Any statement that is reasonably calculated to influence the average investor satisfies the 'in connection with' requirement of Rule 10b-5." *Hasho,* 784 F.Supp. at 1106 (citing *SEC v. Texas Gulf Sulphur Co.,* 401 F.2d 833, 861-62 (2d Cir. 1968), *cert. denied,* 394 U.S. 976 (1969)).

The Defendants promised investors Theodule would double their money through his successful stock and options trading to entice investors to invest with the Defendants. In fact, the very purpose of their investment was to allow Theodule to trade securities on their behalf to secure a 100% return on their investment within 90 days. Accordingly, the Defendants conducted their fraudulent activities "in connection with" the purchase or sale of securities.

4. Scienter

Scienter is the mental state of intending to deceive, manipulate, or defraud. *Ernst & Ernst v. Hochfelder*, 425 U.S. 185, 193 (1976). The Eleventh Circuit has concluded that scienter may be established by a showing of knowing misconduct or severe recklessness. *Carriba Air*, 681 F.2d at 1324. Furthermore, the scienter of corporate officers is imputed to the firm for purposes of liability under the securities laws. *See SEC v. Blinder, Robinson & Co.*, 542 F. Supp. 468, 476 n.3 (D. Colo. 1982) (citing *SEC v. Manor Nursing Ctrs., Inc.*, 458 F.2d 1082, 1096-97 nn.16-18 (2d Cir. 1972)).

Here, the Defendants have acted with the highest degree of scienter. Theodule is the sole member and manager of Consortium, and the managing member of Concept$. Furthermore, Theodule is the principal architect and promoter of the entire Creative Capital investment scheme, and he made specific misrepresentations to investors during face-to-face meetings where he promised to double their money through his successful stock and options trading. Theodule knew these representations were false because he had been consistently losing money trading stocks and options since November 2007. Additionally, he knew he was commingling investor funds with his personal funds and he was misappropriating investor money for his own personal use. Thus, the Defendants acted with scienter.

5. Interstate Commerce

The Defendants engaged in the business of purchasing and selling securities in interstate commerce. They solicited investors nationwide and transferred at least some of the investment funds to brokerage accounts where Theodule lost the overwhelming majority of those funds trading stocks and options via national trading exchanges. Thus, the Defendants were engaged in interstate commerce when they committed the fraudulent acts described in this memorandum and the complaint.

C. The Defendants Are Likely to Continue to Violate the Securities Laws

To obtain injunctive relief, the Commission need only show a "reasonable likelihood" of future violations. *Manor Nursing Ctrs., Inc.*, 458 F.2d at 1100. In assessing whether there is a "reasonable likelihood" of future violations of the securities laws, courts look to the following factors: (1) the egregiousness of the defendant's actions; (2) the isolated or recurrent nature of the infraction; (3) the degree of scienter involved; (4) the sincerity of a defendant's assurances against future violations; (5) the defendant's recognition of the wrongful nature of the conduct and (6) likelihood of opportunities for future violations. *Carriba Air*, 681 F.2d at 1322; *Unique Financial*, 119 F.Supp.2d at 1340. Past illegal conduct is highly suggestive of the likelihood of future violations. *CFTC v. Matrix Trading Group*, 2002 WL 31936799 at *12 (S.D. Fla. Oct. 3, 2002).

In this case, each of the factors demonstrates injunctive relief is required. First, the Defendants' conduct is egregious. They engaged in a fraudulent investment scheme relying on numerous outrageous misrepresentations and omissions. This not only violated the securities laws, it put investor funds at considerable risk. Second, the Defendants' conduct is recurring. Despite Theodule's consistent losses trading stocks and options, and his commingling and misappropriation of investors, the Defendants continue to solicit new investors even though they have not paid existing investors.

Third, as discussed above, the Defendants have displayed the highest degree of scienter by continuing to engage in this conduct when the Defendants know they are not achieving their purported investment returns and the entire investment scheme is fraud. Given the ongoing nature of this investment scheme the fourth and fifth factors are satisfied: the Defendants have not given any assurances their illegal conduct will not continue; and the Defendants have not recognized the wrongfulness of their conduct because they know it is wrong but are continuing it anyway. Sixth, as

long as Creative Capital and Theodule are operating the investment scheme, the Defendants have the opportunity to continue to violate the law and place investor funds at risk. Just last week, the Defendants were continuing to solicit new investors, and on December 11, 2008, an additional $300,000 was transferred into a brokerage account under Theodule's control. Thus, the Defendants have demonstrated their willingness to continue to violate the antifraud provisions of the securities laws and the Defendants pose a very real threat to current and prospective investors unless the Court halts their conduct by issuing a temporary restraining order.

V. RELIEF REQUESTED

A. An *Ex Parte* Temporary Restraining Order is Necessary

Through the facts and legal arguments set forth above, the Commission has met its burden of showing that there is prima facie evidence the Defendants have violated the securities laws and will continue to violate them unless this Court immediately issues an *ex parte* temporary restraining order. The declarations and other evidence the Commission has submitted establish the necessity of an *ex parte* temporary restraining order and other emergency relief.

Based on the Defendants' historical and very recent conduct as well as the ongoing nature of the investment scheme, which places investor funds at risk, emergency *ex parte* relief is warranted. The Defendants have lost investor funds and used new investor funds to pay previous investors their purported investment returns. Furthermore, Theodule recently received additional funds into his brokerage account, creating further risk of investor losses. The Commission therefore requests the Court issue the proposed Order accompanying this memorandum. After the Defendants receive notice and have a chance to be heard by the Court, the Commission requests the Court issue a preliminary injunction and keep the asset freeze and other emergency relief in place pending adjudication of this case on its merits.

B. An Asset Freeze Against the Defendants Is Warranted

Pursuant to their general equity powers, federal courts may order ancillary relief to effectuate the purposes of the federal securities laws. *Unifund SAL*, 910 F.2d at 1041; *SEC v. Wencke*, 622 F.2d 1363, 1369 (9th Cir. 1980); *Manor Nursing Ctrs., Inc.*, 458 F.2d at 1103-04. An asset freeze "facilitate[s] enforcement of any disgorgement remedy that might be ordered" and may be granted "even in circumstances where the elements required to support a traditional SEC injunction have not been established." *Unifund SAL*, 910 F.2d at 1041. It is well recognized an asset freeze is sometimes necessary to ensure a future disgorgement order will not be rendered meaningless. *See Manor Nursing Centers, Inc.*, 458 F.2d at 1106; *United States v. Cannistraro*, 694 F. Supp. 62, 71-72 (D.N.J. 1988), *aff'd in part, vacated in part*, 871 F.2d 1210 (3d Cir. 1989); *SEC v. Vaskevitch*, 657 F. Supp. 312, 315 (S.D.N.Y. 1987).

When there are concerns that defendants might dissipate assets, or transfer or secret assets beyond the jurisdiction of the Court, the Court need only find some basis for inferring a violation of the federal securities laws in order to impose a freeze. *Unifund SAL*, 910 F.2d at 1041-42; *SEC v. Tyler*, 2002 U.S. Dist. Lexis 2952 (N.D. Tex. February 22, 2002); *SEC v. Comcoa, Ltd.*, 887 F. Supp. 1521, 1524 (S.D. Fla. 1995); *SEC v. Margolin*, 1992 U.S. Dist. Lexis 14872 at 19-20 (S.D.N.Y. Sept. 30, 1992); *SEC v. Grossman*, 1987 U.S. Dist. Lexis 1666 at *35-*36 (S.D.N.Y. Feb 17, 1987). Here, there is evidence the Defendants solicited investor funds through fraud and either lost or misappropriated a significant amount of those funds. Given the egregious nature of this fraud, the fact the Defendants continue to solicit new investors even though they have not paid existing investors, and there is additional evidence Theodule already has or is preparing to transfer assets outside of the Court's jurisdiction, an order freezing the Defendants assets is necessary so the

Commission, the Court, and a Court-appointed receiver can assess the severity of the Defendants' misconduct and the state of investors' funds.

C. A Sworn Accounting and Orders Prohibiting Destruction of Records and Expediting Discovery are Necessary

An order prohibiting record destruction and an order expediting discovery are both appropriate to prevent the destruction of documents before this Court can adjudicate the Commission's claims. *SEC v. R.J. Allen & Assocs., Inc.*, 386 F. Supp. 866, 881 (S.D. Fla. 1974). The Court should order expedited discovery so the Commission may take meaningful discovery in the ten-day period between entry of the temporary restraining order and any hearing on the Commission's application for a preliminary injunction. *See* Fed.R.Civ.P. 65(b). In addition, to preserve the Commission's ability to take effective discovery, the Court should order the Defendants not to alter or destroy relevant documents.

Additionally, federal courts have frequently applied their broad powers in the context of Commission actions to prevent securities violators from enjoying the fruits of their misconduct. *Manor Nursing Centers, Inc.*, 458 F.2d at 1104 ("The effective enforcement of the federal securities laws requires that the SEC be able to make violations unprofitable. The deterrent effect of a Commission enforcement action would be greatly undermined if securities law violators were not required to disgorge illicit profits."). In this situation, a sworn accounting from the Defendants is necessary to determine what funds they have obtained from investors and the amount the Defendants owe them, thereby enabling the Commission and the Court to determine the proper amount of disgorgement.

D. Orders Requiring the Defendants to Repatriate Assets and Requiring Theodule to Surrender His Passport are Necessary

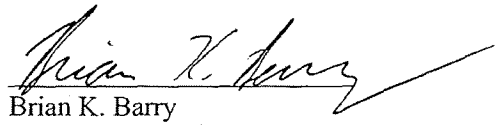
As described above, federal courts have broad equitable powers, which they have used to help prevent securities law violators from enjoying their ill-gotten gains. *Id.* In cases where a defendant exhibited indicia he has transferred assets out of the jurisdiction of the court or displayed likelihood he may flee the jurisdiction, courts have ordered the defendant to repatriate assets and surrender passport(s) temporarily pending the preliminary injunction hearing. *See SEC v. Aquacell Batteries, Inc.*, Case No. 6:07-cv-608-Orl-22DAB, Middle District of Florida (April 13, 2007). In light of investors' beliefs Theodule was preparing to transfer assets overseas and considering fleeing the country, Theodule's recent, abbreviated trip to Switzerland, and his claims he can secure immunity in Sierra Leone, the Court should use its broad equitable powers to ensure the Defendants repatriate assets transferred outside of the United States, require Theodule to surrender his passport(s), and prohibit him from leaving the United States.

VI. CONCLUSION

For the foregoing reasons, the Commission respectfully requests the Court grant the relief requested herein.

December 29, 2008

Respectfully submitted,

By: 

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO.
08-81565-CIV-HURLEY/HOPKINS

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

CREATIVE CAPITAL CONSORTIUM, LLC,
A CREATIVE CAPITAL CONCEPTS, LLC, and
GEORGE L. THEODULE,

Defendants.
_____/

TEMPORARY RESTRAINING ORDER AND OTHER EMERGENCY RELIEF

This cause comes before the Court upon motion by Plaintiff Securities and Exchange Commission ("Commission") for the following orders with respect to Defendants Creative Capital Consortium, LLC ("Consortium"), A Creative Capital Concept$, LLC ("Concept$") (collectively "Creative Capital") and George L. Theodule ("Theodule"):

1) a Temporary Restraining Order;

2) an Order to Show Cause Why a Preliminary Injunction Should Not be Granted;

3) an Order Freezing Defendants' Assets;

4) an Order Requiring Sworn Accountings;

5) an Order Prohibiting Destruction of Documents;

6) an Order Expediting Discovery;

7) a Repatriation Order; and

8) an Order requiring Theodule to surrender his passport temporarily and prohibiting him from traveling outside the United States.

The Court has considered the Commission's Complaint, its Emergency Ex-Parte Motion for Temporary Restraining Order and Other Emergency Relief with Supporting Memorandum of Law, and the declarations and exhibits filed in support of its motion. The Court finds the Commission has made a sufficient and proper showing in support of the relief granted herein by (1) presenting a prima facie case of securities laws violations by the Defendants, and (2) showing a reasonable likelihood the Defendants will harm the investing public by continuing to violate the federal securities laws unless they are immediately restrained. Accordingly, it is ordered as follows:

I.

SHOW CAUSE HEARING

IT IS ORDERED AND ADJUDGED that the Defendants show cause, if any, before the Honorable Middlebrooks of this Court, at 10 o'clock A.m., on the 2nd day of January, 2009, in Courtroom 7 of the United States Courthouse, West Palm Beach Florida, or as soon thereafter as the matter can be heard, why a Preliminary Injunction pursuant to Rule 65 of the Federal Rules of Civil Procedure should not be granted against the Defendants, as requested by the Commission.

II.

TEMPORARY RESTRAINING ORDER

IT IS FURTHER ORDERED AND ADJUDGED that, pending determination of the Commission's request for a Preliminary Injunction, the Defendants and their directors, officers, agents, servants, employees, attorneys, and those persons in active concert or participation with them, and each of them, are hereby restrained and enjoined from:

Section 10(b) of the Securities Exchange Act of 1934 and Rule 10b-5

Directly or indirectly, by use of any means or instrumentality of interstate commerce or of the mails, or of any facility of any national securities exchange, in connection with the purchase or sale of any securities, knowingly or recklessly: (i) employing devices, schemes or artifices to defraud; (ii) making untrue statements of material facts and omitting to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; or (iii) engaging in acts, practices and courses of business which have operated, are now operating or will operate as a fraud upon the purchasers of such securities in violation of Section 10(b) of the Securities Exchange Act of 1934 ("Exchange Act") [15 U.S.C. § 78j(b)], and Rule 10b-5 [17 C.F.R. § 240.10b-5] thereunder.

III.

ASSET FREEZE

IT IS FURTHER ORDERED AND ADJUDGED that, pending determination of the Commission's request for a Preliminary Injunction, the Defendants, their directors, officers, agents, servants, employees, attorneys, depositories, banks, and those persons in active concert or participation with any one or more of them, and each of them, who receive notice of this order by personal service, mail, facsimile transmission or otherwise, except any Receiver this Court appoints, be and hereby are, restrained from, directly or indirectly, transferring, setting off, receiving, changing, selling, pledging, assigning, liquidating or otherwise disposing of, or withdrawing any assets or property owned by, controlled by, held for the benefit of, Theodule, Creative Capital, or in the possession of, including, but not limited to, cash, free credit balances, fully paid for securities, and/or property pledged or hypothecated as collateral for loans, and including, but not limited to, the following presently known brokerage and bank accounts:

BANK ACCOUNTS	
Account No.	Account Name
[redacted]	**Washington Mutual**
	A Creative Capital Concepts LLC
	Bliss Travel Management LLC
	A Creative Capital Concepts LLC
	George Louis Theodule
	George Louis Theodule
	Creative Capital Consortium LLC
	Reverse Auto Loan LLC
	Wachovia
	Creative Capital Consortium LLC
	Creative Capital Consortium LLC
	Creative Capital Consortium LLC
	Bank of America
	George Theodule
	George Theodule
	Creative Capital Consortium LLC
	Creative Capital Consortium LLC
	Creative Capital Consortium LLC
	George Theodule and Clyde L. Richardson Jr.
	G$Trade Financial, Inc.
	G$Trade Financial, Inc.
	George Theodule and Clyde L. Richardson Jr.
	George Theodule and Clyde L. Richardson Jr.
	Sun Trust
	Dorothy Delisfort or George L. Theodule
	Dorothy Delisfort or George L. Theodule
	Dorothy Delisfort or George L. Theodule
	Creative Capital Consortium
	Dorothy Delisfort or George L. Theodule

BROKERAGE ACCOUNTS	
Account No.	**Account Name**
[redacted]	**thinkorswim**
	Creative Capital Concepts
	TradeStation
	George Theodule
	optionsXpress
	George Theodule and Gabrielle Alexis
	George L. Theodule
	Fritz R. Nivose and George L. Theodule
	Yolette Fabre and George L. Theodule
	George L. Theodule and Derek J. Woods
	Detra A Pasby and George Theodule JTWROS
	George and Elza Theodule

IV.

ACCOUNTINGS

A. **Accounting and Identification of Accounts by George L. Theodule**

IT IS FURTHER ORDERED AND ADJUDGED that within five (5) business days of the issuance of this Order, Theodule shall:

(a) make a sworn accounting to this Court and the Commission of all funds, whether in the form of compensation, commissions, income (including payments for assets, shares or property of any kind), and other benefits (including the provision of services of a personal or mixed business and personal nature) received by him from Creative Capital;

(b) make a sworn accounting to this Court and the Commission of all assets, funds, or other properties held by him, jointly or individually, or for his direct or indirect beneficial interest, or over which he maintains control, wherever situated, stating the location, value, and disposition of each such asset, fund, and other property; and

(c) provide to the Court and the Commission a sworn identification of all accounts (including, but not limited to, bank accounts, savings accounts, securities accounts and deposits of any kind) in which he (whether solely or jointly), directly or indirectly (including through a corporation, partnership, relative, friend or nominee), either has an interest or over which he has the power or right to exercise control.

B. **Accountings by Consortium and Concept$**

IT IS HEREBY FURTHER ORDERED AND ADJUDGED that Consortium and Concept$ shall each make a sworn accounting within five (5) business days of the issuance of this Order to the Commission and this Court of:

(a) all funds received from any source, including, but not limited to, funds received from investment clubs and individual investors;

(b) all compensation, income (including payment for assets, shares or property of any kind), other benefits (including the provision of services of a personal or mixed business and personal nature) they have paid to Theodule; and

(c) all assets, funds, or other properties held in their names, or for their direct or indirect beneficial interest, or over which they maintain control, wherever situated, stating the location, value, and disposition of each such asset, fund, and other property;

provided, however, that any entity over which this Court has appointed a Receiver shall be excused from providing such accountings.

V.

RECORDS PRESERVATION

IT IS FURTHER ORDERED AND ADJUDGED that, pending determination of the Commission's request for a Preliminary Injunction, the Defendants, their directors, officers, agents,

servants, employees, attorneys, depositories, banks, and those persons in active concert or participation with any one or more of them, and each of them, be and they hereby are restrained and enjoined from, directly or indirectly, destroying, mutilating, concealing, altering, disposing of, or otherwise rendering illegible in any manner, any of the books, records, documents, correspondence, brochures, manuals, papers, ledgers, accounts, statements, obligations, files and other property of or pertaining to the Defendants wherever located, until further Order of this Court.

VI.

EXPEDITED DISCOVERY

IT IS FURTHER ORDERED AND ADJUDGED that:

(a) Immediately upon entry of this Order, the parties may take depositions upon oral examination of parties and non-parties subject to two (2) business days notice. Should any Defendant fail to appear for a properly noticed deposition, that party may be prohibited from introducing evidence at the hearing on the Commission's request for a preliminary injunction;

(b) Immediately upon entry of this Order, the parties shall be entitled to serve interrogatories, requests for the production of documents and requests for admissions. The parties shall respond to such discovery requests within five (5) calendar days of service;

(c) All responses to the Commission's discovery requests shall be delivered to Brian K. Barry, Securities and Exchange Commission, 801 Brickell Avenue, Suite 1800, Miami, Florida 33131 by the most expeditious means available; and

(d) Service of discovery requests shall be sufficient if made upon the parties by facsimile or overnight courier, and depositions may be taken by telephone or other remote electronic means.

VII.

REPATRIATION ORDER

IT IS FURTHER ORDERED AND ADJUDGED that, pending determination of the Commission's request for a Preliminary Injunction, the Defendants, their directors, officers, agents, servants, employees, attorneys, depositories, banks, and those persons in active concert or participation with any one or more of them, and each of them, shall:

(a) take such steps as are necessary to repatriate to the territory of the United States all funds and assets of investors described in the Commission's Complaint in this action which are held by them or are under their direct or indirect control, jointly or singly, and deposit such funds into the Registry of the United States District Court, Southern District of Florida; and

(b) provide the Commission and the Court a written description of the funds and assets so repatriated.

VIII.

SURRENDER OF PASSPORT

IT IS FURTHER ORDERED AND ADJUDGED that, pending determination of the Commission's request for a Preliminary Injunction, Theodule surrender his passport(s) temporarily and be barred from traveling outside the United States.

IX.

RETENTION OF JURISDICTION

IT IS FURTHER ORDERED AND ADJUDGED that this Court shall retain jurisdiction over this matter and the Defendants in order to implement and carry out the terms of all Orders and Decrees that may be entered and/or to entertain any suitable application or motion for additional

relief within the jurisdiction of this Court, and will order other relief that this Court deems appropriate under the circumstances.

DONE AND ORDERED at 3:20 o'clock p. m. this 24th day of December, 2008, at WPB, Florida.

UNITED STATES DISTRICT JUDGE

Copies to:

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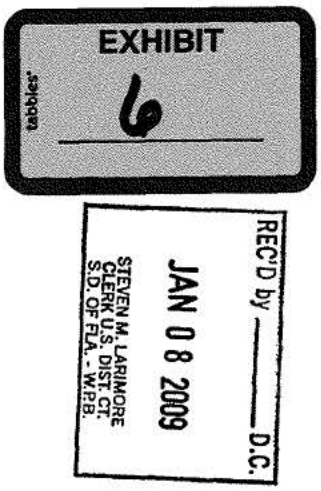

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO.: 08-81565-CIV-HURLEY/HOPKINS

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

CREATIVE CAPITAL CONSORTIUM, LLC, A CREATIVE CAPITAL CONCEPT$, LLC, and GEORGE L. THEODULE,

Defendants.
_____/

ORDER GRANTING PRELIMINARY INJUNCTION AND OTHER RELIEF AGAINST ALL DEFENDANTS

THIS CAUSE comes before the Court on Plaintiff's Motion for Entry of Order of Preliminary Injunction and Other Relief [DE 17] against Defendants Creative Capital Consortium, LLC and Creative Capital Concept$, LLC, filed on January 6, 2009, and on the show cause hearing held on January 6, 2009 [DE 19] to determine whether to grant the Plaintiff's application for a preliminary injunction as to Defendant George L. Theodule. I have reviewed the record and am advised in the premises.

Procedural Background

On December 29, 2008, the Securities and Exchange Commission (the SEC) filed a complaint [DE 1] against Defendants Creative Capital Consortium, LLC, A Creative Capital Concept$, LLC, and George L. Theodule. With the complaint, the SEC also filed an emergency

motion to appoint a receiver [DE 2] and an emergency motion for a temporary restraining order and other emergency relief [DE 5]. On that same day, this Court entered a temporary restraining order and other emergency relief [DE 7], and appointed Jonathan E. Pearlman as a receiver [DE 8] for Creative Capital Consortium, LLC and Creative Capital Concept$, LLC. On December 31, 2008, this Court entered an order [DE 14] amending the previous orders [DE 7 and 8] to include United Investment Club, LLC, Reverse Auto Loan, LLC, and Sancal Investment and Financial Services, Inc., as entities related to the corporate Defendants. On January 6, 2009, the SEC filed a Motion for a Preliminary Injunction against the corporate Defendants [DE 17] with a Consent of Defendants Creative Capital Consortium, LLC and A Creative Capital Concept$, LLC, to Order of Preliminary Injunction and Other Relief [DE 17-2]. The Consent to the proposed injunction was signed on behalf of the corporate Defendants by Jonathan E. Pearlman, the Court-appointed receiver for the corporate Defendants.

Pursuant to the Orders entered December 29, 2008 [DE 7] and December 31, 2008 [DE 13], and Rule 65, Fed.R.Civ.P., a hearing was held on January 6, 2009 to determine whether to issue a Preliminary Injunction against George L. Theodule.[1] In addition to the exhibits offered in support of the SEC's motions [DE 5 and 17] and other evidence previously filed, the following witnesses gave testimony on behalf of the SEC: Jonathan E. Pearlman, the Court appointed receiver; Neptime Dieujuste, a financial investigator for the Florida Office of Financial Regulation; William Sabarese, and alleged victim of the alleged "Ponzi" scheme; and Kathleen Strandell, and Securities and Exchange Commission enforcement accountant.

Legal Standard

[1]In addition to the Consent [DE 17-2] to the Injunction by the Receiver on behalf of the corporate Defendants, the Court also relied upon the evidence presented at the hearing against the corporate Defendants in issuing this Order.

Under Section 21(d) of the Exchange Act, 15 U.S.C. § 78u(d)(1), a District Court may issue an injunction or restraining order upon a proper showing by the SEC, when it appears to the SEC that any person is engaged or is about to engage in acts or practices constituting a violation of securities laws. The SEC is entitled to preliminary injunction against alleged securities laws violator, when it establishes a prima facie case of previous violations of federal securities laws, and a reasonable likelihood that the wrong will be repeated. *SEC v. Management Dynamics, Inc.*, 515 F.2d 801, 807 (2d Cir. 1975).

In *SEC v. Management Dynamics, Inc.*, the Second Circuit held that the SEC's statutory remedy of injunction, "obviate[s] the need for a finding of irreparable injury at least where the statutory prerequisite the likelihood of future violation of the securities laws has been clearly demonstrated." *Id.* at 807. Therefore, the "SEC appears in these proceedings not as an ordinary litigant, but as a statutory guardian charged with safeguarding the public interest in enforcing the securities laws." *Id.*[2] *See also Hecht Co. v. Bowles*, 321 U.S. 321, 331 (1994) (As injunction is a statutory remedy under the Emergency Price Control Act of 1942, the propriety of granting injunctive relief under the Act is measured by standards of public interest rather than requirements of private litigation).

The Eleventh Circuit has enunciated similar standards for awarding the SEC preliminary

[2]Typically, to prevail on a motion for a preliminary injunction, plaintiffs must establish four element justifying issuance of a preliminary injunction: (1) substantial likelihood of success on the merits; (2) immediate and irreparable injury absent injunctive relief; (3) the threatened injury to the movant outweighs whatever damage the proposed injunction may cause the opposing party; and (4) if issued, the injunction would not be adverse to the public interest. *Klay v. United Heathgroup, Inc.*, 376 F.3d 1092, 1097 (11th Cir. 2004). I conclude that the SEC has also satisfied its burden for a preliminary injunction under this standard.

injunctions. *Securities and Exchange Commission v. Blatt*, 583 F.2d 1325 (5th Cir. 1978)[3] sets forth several factors in determining whether a preliminary injunction should be issued:

> Such factors include the egregiousness of the defendant's actions, the isolated or recurrent nature of the infraction, the degree of scienter involved, the sincerity of the defendant's assurances against future violations, the defendant's recognition of the wrongful nature of his conduct, and the likelihood that the defendant's occupation will present opportunities for future violations.
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> 583 F.2d at 1334, n.29.

In addition, it is appropriate to award a preliminary injunction when the SEC has demonstrated "a pattern of past and present questionable business practices," and when it is likely that the defendants will "remain in a position where opportunities for future violations of the securities laws will be abundant." *See SEC v. Carriba Air, Inc.*, 681 F.2d 1318, 1322 (11th Cir. 1982). Further, to grant a preliminary injunction in a securities case, a plaintiff must provide, among other elements, "positive proof" that the defendant will likely violate securities laws in the future. *See SEC v. ETS Payphones, Inc.*, 408 F.3d 727, 733 (11th Cir. 2005).

The SEC has established a prima facie showing of violations of the securities laws as alleged in its Complaint, namely, that Defendants had made (1) a misrepresentation or omission (2) that is material (3) in connection with the purchase or sale of a security (4) made with scienter (5) during the use of interstate commerce. *See SEC v. Kirkland*, 521 F.Supp.2d 1281, 1297 (M.D. Fla. 2007). It has also shown a likelihood that the Defendants will violate securities laws in the future.

The SEC has put forth evidence in the form of declarations, affidavits, live testimony, banks

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[3] In *Bonner v. City of Prichard*, 661 F.2d 1206, 1209 (11th Cir. 1981), the Eleventh Circuit adopted as precedent the decisions of the Fifth Circuit prior to October 1, 1981.

statements, leases, and copies of the Defendant's "Business Plan."[4] The evidence supports the SEC's claims that the Defendants solicited investments by guaranteeing prospective investors a 100% return on their investment within 90 days based upon the successful trading of stocks and options. Despite these representations to investors, over 97% of the total funds deposited in Defendants' accounts collectively were lost through unsuccessful trading, according to the Declaration and live testimony of Ms. Strandell.

For the foregoing reasons, it is appropriate to issue a preliminary injunction against Creative Capital Consortium, LLC, A Creative Capital Concept$, LLC, and George L. Theodule (collectively, "the Defendants") barring further violations of the securities laws; freezing assets of the Defendants; preserving their records, and repatriating funds.

I.

PRELIMINARY INJUNCTION

IT IS ORDERED AND ADJUDGED that, pending resolution of this case on the merits, the Defendants, their directors, officers, agents, servants, employees, attorneys, and those persons in active concert or participation with them, and each of them, are hereby restrained and enjoined from:

Section 10(b) of the Securities Exchange Act of 1934 and Rule 10b-5

Directly or indirectly, by use of any means or instrumentality of interstate commerce or of the mails, or of any facility of any national securities exchange, in connection with the purchase or sale of any securities, knowingly or recklessly: (1) employing devices, schemes or artifices to

[4]At the preliminary injunction stage, a district court may rely on affidavits and hearsay materials which would not be admissible evidence for a permanent injunction, if the evidence is appropriate given the character and objectives of the injunctive proceeding. *Levi Strauss & Co. v. Sunrise Intern. Trading Inc.*, 51 F.3d 982, 985 (11th Cir. 1995).

defraud, (2) making untrue statements of material facts and omitting to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; or (3) engaging in acts, practices and courses of business which have operated, are now operating or will operate as a fraud upon the purchasers of such securities in violation of Section 10(b) of the Securities Exchange Act of 1934 ("Exchange Act") [15 U.S.C. § 78j(b)] and Rule 10b-5 [17 C.F.R. § 240.10b-5] thereunder.

II.

ASSET FREEZE

IT IS FURTHER ORDERED AND ADJUDGED that, pending resolution of this case on the merits, the Defendants, their directors, officers, agents, servants, employees, attorneys, depositories, banks, and those persons in active concert or participation with them, and each of them, who receive notice of this order by personal service, mail, facsimile transmission or otherwise, except the Receiver, be and hereby are, restrained from directly or indirectly, transferring, setting off, receiving, changing, selling, pledging, assigning, liquidating or otherwise disposing of, or withdrawing any assets or property owned by, controlled by, held for the benefit of the Defendants or in the possession of, including, but not limited to, cash, free credit balances, fully paid for securities, and/or property pledged or hypothecated as collateral for loans.

III.

ACCOUNTING IDENTIFICATION OF ACCOUNTS BY THEODULE

IT IS FURTHER ORDERED AND ADJUDGED that, if he has not already done so, Theodule shall make his sworn accounting required of him, and serve and file such accounting within five business days of the issuance of this Order.

IV.

RECORDS PRESERVATION

IT IS FURTHER ORDERED AND ADJUDGED that, pending resolution of this case the Defendants, their directors, officers, agents, servants, employees, attorneys, depositories, banks, and those persons in active concert or participation with any one or more of them, and each of them, be and they hereby are restrained and enjoined from, directly or indirectly, destroying, mutilating, concealing, altering, disposing of, or otherwise rendering illegible in any manner, any of the books, records, documents, correspondence, brochures, manuals, papers, ledgers, accounts, statements, obligations, files and other property of or pertaining to the Defendants wherever located, until further Order of this Court.

V.

REPATRIATION ORDER

IT IS FURTHER ORDERED AND ADJUDGED that the Defendants, their directors, officers, agents, servants, employees, attorneys, depositories, banks, and those persons in active concert or participation with any one or more of them, and each of them, shall:

(A) immediately take such steps as are necessary to repatriate to the territory of the United States all funds and assets of investors described in SEC's Complaint in this action which are held by them or are under their direct or indirect control, jointly or singly, and deposit such funds into the Registry of the United States District Court, Southern District of Florida; and

(B) provide the SEC, the Receiver, and the Court a written description of the funds and assets so repatriated.

VI.

SURRENDER OF PASSPORT

IT IS FURTHER ORDERED AND ADJUDGED that if he has not already done so, Theodule shall immediately surrender all passport(s) issued to him to the Clerk of the Court and be barred from applying for or accepting any additional passport(s), and is barred from traveling outside the United States. pending the resolution of this case on the merits.

VII.

RETENTION OF JURISDICTION

IT IS FURTHER ORDERED AND ADJUDGED that this Court shall retain jurisdiction over this matter and the Defendants in order to implement and carry out the terms of all Orders and Decrees that may be entered and/or to entertain any suitable application or motion for additional relief within the jurisdiction of this Court, and will order other relief that this Court deems appropriate under the circumstances.

VIII.

AUTHORITY OF RECEIVER

IT IS FURTHER ORDERED AND ADJUDGED that the Preliminary Injunction does not apply to or limit any power, duty, or authority of the Receiver to administer and manage the business affairs, marshal and safeguard the assets, and take whatever actions are necessary for the protection of the Creative Capital Defendants' investors.

DONE AND ORDERED in chambers in West Palm Beach, Florida, this 8 day of January, 2009.

DONALD M. MIDDLEBROOKS
UNITED STATES DISTRICT JUDGE

Copies to counsel of record

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
WEST PALM BEACH DIVISION

CASE NO. 08-CV-81565-HURLEY/HOPKINS

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

CREATIVE CAPITAL CONSORTIUM, LLC, et al.,

Defendants.
_____/

JUDGMENT OF PERMANENT INJUNCTION AND OTHER RELIEF
AS TO DEFENDANT GEORGE L. THEODULE

Plaintiff Securities and Exchange Commission commenced this action by filing its Complaint against, among others, Defendant George L. Theodule. In its Complaint, the Commission sought, among other relief against Theodule, a permanent injunction to prohibit violations of Section 10(b) and Rule 10b-5 of the Securities Exchange Act of 1934 ("Exchange Act") [15 U.S.C. § 78j(b) and 17 C.F.R. § 240.10b-5]; disgorgement and prejudgment interest; and a civil penalty pursuant to Section 21(d) of the Exchange Act [15 U.S.C. § 78(d)(3)].

Theodule, by virtue of the attached Consent, having entered an appearance and consented to the Court's jurisdiction over him and over the subject matter of this action, has consented to entry of this Judgment of Permanent Injunction and Other Relief ("Judgment") without admitting or denying the allegations of the Complaint (except as to subject matter and personal jurisdiction); waived findings of fact and conclusions of law; and waived any right to appeal from the Judgment. This Court having accepted such Consent, having jurisdiction over Theodule and the subject matter of this action:

I.

SECTION 10(b) and RULE 10b-5 OF THE SECURITIES ACT

IT IS ORDERED AND ADJUDGED that Theodule, his officers, agents, servants, representatives, employees, attorneys, and all persons in active concert or participation with them who receive actual notice of this Judgment by personal service or otherwise are permanently restrained and enjoined from violating, directly or indirectly, Section 10(b) and Rule 10b-5 of the Exchange Act [15 U.S.C. § 78j(b) and 17 C.F.R. § 240.10b-5], by using any means or instrumentality of interstate commerce, or of the mails, or of any facility of any national securities exchange, in connection with the purchase or sale of any security:

(a) to employ any device, scheme, or artifice to defraud;

(b) to make any untrue statement of a material fact or to omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading; or

(c) to engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person.

II.

DISGORGEMENT AND CIVIL PENALTY

IT IS FURTHER ORDERED AND ADJUDGED that Theodule shall pay disgorgement of ill-gotten gains, prejudgment interest thereon, and a civil penalty pursuant to Section 21(d) of the Exchange Act [15 U.S.C. § 78u(d)(3)]. The Court shall determine the amounts of the disgorgement and civil penalty upon motion of the Commission. Prejudgment interest shall be calculated from December 29, 2008, based on the rate of interest used by the Internal Revenue Service for the underpayment of federal income tax as set forth in 26 U.S.C.

§ 6621(a)(2). In connection with the Commission's motion for disgorgement and/or civil penalties, and at any hearing held on such a motion: (a) Theodule will be precluded from arguing that he did not violate the federal securities laws as alleged in the Complaint; (b) Theodule may not challenge the validity of the Consent or this Final Judgment; (c) solely for the purposes of such motion, the allegations of the Complaint shall be accepted as and deemed true by the Court; and (d) the Court may determine the issues raised in the motion on the basis of affidavits, declarations, excerpts of sworn deposition or investigative testimony, and documentary evidence, without regard to the standards for summary judgment contained in Rule 56(c) of the Federal Rules of Civil Procedure. In connection with the Commission's motion for disgorgement and/or civil penalties, the parties may take discovery, including discovery from appropriate non-parties

III.

INCORPORATION OF THEODULE'S CONSENT

IT IS FURTHER ORDERED AND ADJUDGED that the Consent of Theodule is incorporated herein with the same force and effect as if fully set forth herein, and that Theodule shall comply with all of the undertakings and agreements set forth herein.

IV.

RETENTION OF JURISDICTION

IT IS FURTHER ORDERED AND ADJUDGED that the Court shall retain jurisdiction of this matter for the purposes of enforcing the terms of this Judgment.

V.

CERTIFICATION UNDER RULE 54(b)

There being no just reason for delay, pursuant to Rule 54(b) of the Federal Rules of Civil Procedure, the Clerk is ordered to enter this Judgment forthwith and without further notice.

DONE AND ORDERED in chambers at West Palm Beach, Florida this 21st day of October, 2009.

THE HONORABLE DANIEL ~~T.K.~~ HURLEY
UNITED STATES DISTRICT JUDGE

Copies to all counsel and parties of record